

# EXHIBIT Q

ALAN ENSLEN

January 24, 2017

MATTHEW BISSONNETTE vs KEVIN PODLASKI

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|    |  | Page 1 |    |   | Page 3                      |      |
|----|--|--------|----|---|-----------------------------|------|
| 1  | IN THE UNITED STATES DISTRICT COURT                  |        | 1  | I N D E X   |                             |      |
| 2  | FOR THE NORTHERN DISTRICT OF INDIANA                 |        | 2  |   | Page                        |      |
| 3  | MATTHEW BISSONNETTE, )                               |        | 3  | Appearances   | 2                           |      |
|    | )  |        | 4  | ALAN ENSLEN   |                             |      |
| 4  | Plaintiff, )   |        | 5  | Examination By Mr. Furman                           | 4                           |      |
|    | )  |        | 6  | Examination By Mr. Tobey                            | 128                         |      |
| 5  | vs. ) Case No. 1:15-cv-00334                         |        | 7  | Signature and Changes                               | 139                         |      |
|    | )  |        | 8  | Reporter's Certificate                              | 141                         |      |
| 6  | KEVIN PODLASKI and CARSON )                          |        | 9  |   |                             |      |
|    | BOXBERGER, LLP, )                                    |        | 10 | E X H I B I T S                                     |                             |      |
| 7  | )  |        | 11 | No.   | Description                 | Page |
| 8  | Defendants. )  |        | 12 | Exhibit 132   | Book Entitled "No Easy Day" | 7    |
| 9  | <u>ORAL DEPOSITION OF</u>                            |        | 13 | Exhibit 133   | Book Entitled "No Hero"     | 7    |
| 10 | ALAN ENSLEN  |        | 14 | Exhibit 134   | Biography of Alan F. Enslen | 29   |
| 11 | JANUARY 24, 2017                                     |        | 15 | PREVIOUSLY MARKED EXHIBITS                          |                             |      |
| 12 |  |        | 16 | Exhibit 1   | *****                       | 111  |
| 13 |  |        | 17 | Exhibit 24  | *****                       | 98   |
| 14 | ORAL DEPOSITION of ALAN ENSLEN, produced             |        | 18 | Exhibit 27  | *****                       | 97   |
| 15 | as a witness at the instance of the Defendants, and  |        | 19 | Exhibit 109   | *****                       | 114  |
| 16 | duly sworn, was taken in the above-styled and        |        | 20 | INFORMATION REQUESTED                               |                             |      |
| 17 | numbered cause on the 24th of January, 2017, from    |        | 21 | Page  | Line                        |      |
| 18 | 10:35 a.m. to 3:03 p.m., before Karen L. Shelton,    |        | 22 | 48  | 4                           |      |
| 19 | RDR/CRR/CSR in and for the State of Texas, reported  |        | 23 | 71  | 5                           |      |
| 20 | by machine shorthand at the offices of Johnston      |        | 24 | 73  | 10                          |      |
| 21 | Tobey Baruch, 3308 Oak Grove Avenue, Dallas, Texas,  |        | 25 | 76  | 2                           |      |
| 22 | pursuant to the Federal Rules of Civil Procedure and |        |    |   |                             |      |
| 23 | the provisions stated on the record or attached      |        |    |   |                             |      |
| 24 | hereto.  |        |    |   |                             |      |
| 25 |  |        |    |   |                             |      |
|    |  |        |    |   |                             |      |
|    |  |        |    |   |                             |      |
|    |  | Page 2 |    |   | Page 4                      |      |
| 1  | A P P E A R A N C E S                                |        | 1  | ALAN ENSLEN,  |                             |      |
| 2  |  |        | 2  | having been first duly sworn, testified as follows: |                             |      |
| 3  | FOR THE PLAINTIFF:                                   |        | 3  | E X A M I N A T I O N                               |                             |      |
| 4  | Mr. Robert Tobey                                     |        | 4  | BY MR. FURMAN:                                      |                             |      |
|    | Johnston Tobey Baruch                                |        | 5  | Q. Good morning, Mr. Enslen.                        |                             |      |
| 5  | 3308 Oak Grove Avenue                                |        | 6  | A. Hi, Mark. How are you?                           |                             |      |
|    | Dallas, Texas 75204                                  |        | 7  | Q. It's Mike, but you can call me Mark.             |                             |      |
| 6  | (214) 741-6260                                       |        | 8  | A. I'm sorry.                                       |                             |      |
|    | robert@jtlaw.com                                     |        | 9  | Q. You can call me anything you like as long        |                             |      |
| 7  |  |        | 10 | as you're not calling me late for dinner.           |                             |      |
| 8  | FOR THE DEFENDANTS:                                  |        | 11 | A. Please call me Alan.                             |                             |      |
| 9  | Mr. A. Michael Furman                                |        | 12 | Q. Okay. Mr. Enslen, I know you know these          |                             |      |
|    | Furman Kornfeld & Brennan, LLP                       |        | 13 | rules, but before we begin, just a couple of        |                             |      |
| 10 | 61 Broadway  |        | 14 | reminders, first that please keep your answers      |                             |      |
|    | 26th Floor   |        | 15 | verbal. The reporter, as you know, is taking down   |                             |      |
| 11 | New York, New York 10006                             |        | 16 | every word that we exchange. And also, if you could |                             |      |
|    | (212) 867-4100                                       |        | 17 | wait until my question is over and then you can     |                             |      |
| 12 | mfurman@fkblaw.com                                   |        | 18 | respond and we don't talk over each other. That's   |                             |      |
| 13 |  |        | 19 | essentially the ground rules. Do you understand?    |                             |      |
| 14 |  |        | 20 | A. Yes.   |                             |      |
| 15 |  |        | 21 | Q. Mr. Enslen, could you just let me know           |                             |      |
| 16 |  |        | 22 | what you did to prepare for this deposition today.  |                             |      |
| 17 |  |        | 23 | A. I met briefly yesterday with Mr. Johnston        |                             |      |
| 18 |  |        | 24 | and Mr. Tobey and reviewed some of the documents    |                             |      |
| 19 |  |        | 25 | that I anticipate are going to come up today,       |                             |      |
| 20 |  |        |    |   |                             |      |
| 21 |  |        |    |   |                             |      |
| 22 |  |        |    |   |                             |      |
| 23 |  |        |    |   |                             |      |
| 24 |  |        |    |   |                             |      |
| 25 |  |        |    |   |                             |      |

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| 1 including documents related to the No Hero<br>2 prepublication security review.<br>3 Q. I want to get to the documents in a<br>4 moment. Have you been compensated for your time<br>5 yesterday and today?<br>6 A. No.<br>7 Q. Do you plan to be compensated for your<br>8 time yesterday and today?<br>9 A. I anticipate being reimbursed for<br>10 expenses, for out-of-pocket expenses but not for<br>11 time.<br>12 Q. Are you keeping time in connection with<br>13 your preparation and your deposition today?<br>14 A. Yes. I mean, I'm aware of what the time<br>15 is going into, I'm just not billing for it.<br>16 Q. Do you anticipate billing at any point?<br>17 A. No.<br>18 Q. Is there a particular reason why you're<br>19 not doing that?<br>20 A. I think Matt has paid enough money to<br>21 lawyers and, frankly, trying to -- trying to help<br>22 him out a little bit. It's -- you know, we could<br>23 revisit that issue if it became otherwise, but right<br>24 now just trying to, you know, just to do this on a<br>25 pro bono basis.  | 1 documents were?<br>2 A. Yeah, they were really all related to the<br>3 prepublication security review for the manuscript he<br>4 wrote.<br>5 MR. FURMAN: Because we're going to refer<br>6 to the two books in this deposition, and I'm<br>7 speaking to Mr. Tobey, I realized that we didn't<br>8 mark them as exhibits. I'm going to do that just so<br>9 that we have them in the record.<br>10 MR. TOBEY: Sure.<br>11 MR. FURMAN: So these are my two copies.<br>12 I don't think that they were marked up in any<br>13 particular way when I read them. I just want to<br>14 make sure there's no -- nothing in them that's mine.<br>15 But these are my books that I bought off of Amazon.<br>16 So the first one I'd like to mark is the<br>17 book No Easy Day. That would be Exhibit 132. And<br>18 the exhibit after that would be book No Hero. It<br>19 would be Exhibit 133.<br>20 (Exhibits 132 and 133 marked)<br>21 BY MR. FURMAN:<br>22 Q. I'm going to show you what's been marked<br>23 as Exhibit 132 and Exhibit 133. Just let me know if<br>24 you have seen these two books before.<br>25 A. Yes. |
| Page 6  | Page 8   |
| 1 Q. When you refer to Matt, you're obviously<br>2 referring to Mr. Bissonnette?<br>3 A. Mr. Bissonnette, yes.<br>4 Q. Understood. Now, let me know what<br>5 documents you reviewed in preparation for your<br>6 deposition today.<br>7 A. Again, it was the documents that I<br>8 provided pursuant to the discovery request earlier<br>9 in the case. I briefly looked over those. I looked<br>10 at a few documents that I believe you had designated<br>11 as being at issue today or that you wanted to talk<br>12 about today. I looked over those. I looked over<br>13 some of the pleadings in this case. That's<br>14 predominantly what I looked at.<br>15 Q. How much time did you spend doing that?<br>16 A. Looking at documents alone?<br>17 Q. Yeah.<br>18 A. Three hours.<br>19 Q. And how much time did you spend speaking<br>20 with Mr. Johnston and Mr. Tobey?<br>21 A. I think we met for close to three hours,<br>22 maybe a little less than that.<br>23 Q. Now, you mentioned documents that were<br>24 provided in connection with discovery requests. Can<br>25 you just give me a description of what those | 1 Q. And did you read them both?<br>2 A. Yes.<br>3 Q. You assisted Mr. Bissonnette in connection<br>4 with No Hero, which is Exhibit 133?<br>5 A. That's correct.<br>6 Q. Did you have any involvement with No Easy<br>7 Day in terms of its publication?<br>8 A. No, I did not.<br>9 Q. Okay. But you had read No Easy Day before<br>10 or during the time that you worked with<br>11 Mr. Bissonnette on No Hero?<br>12 A. I actually read No Easy Day prior to ever<br>13 meeting Mr. Bissonnette, just out of interest, so I<br>14 was familiar with the book.<br>15 Q. How did you first learn about the book?<br>16 A. I'm a member of the special operations<br>17 community myself from military service, so this was<br>18 widely known and anticipated as soon as it came out.<br>19 So, you know, it was just out of my interest through<br>20 the military channels.<br>21 Q. Did you hear about the book before it was<br>22 published?<br>23 A. I don't recall if I heard about it before<br>24 it was published. I just was -- you know, sometime<br>25 probably shortly after it came out, I was aware of   |

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| <p style="text-align: right;">Page 9</p> <p>1 it because it was, you know, widely talked about<br/>     2 within the channels of, you know, special operations<br/>     3 personnel. It's a fairly tight community, so --<br/>     4 Q. Do you know Kevin Podlaski?<br/>     5 A. I do not.<br/>     6 Q. Have you ever met him?<br/>     7 A. I have not.<br/>     8 Q. Have you ever heard of him before?<br/>     9 A. I have heard of him now, but I had not<br/>     10 heard of him before anything related to, you know,<br/>     11 the No Easy Day issues.<br/>     12 Q. You're currently a partner at Maynard<br/>     13 Cooper Cale?<br/>     14 A. Maynard Cooper and Gale.<br/>     15 Q. And Gale.<br/>     16 A. Uh-huh.<br/>     17 Q. And where is that law firm located?<br/>     18 A. Headquartered in Birmingham, Alabama.<br/>     19 Q. And how long have you been a partner or<br/>     20 shareholder at that law firm?<br/>     21 A. Give me a second to do the math. Eleven<br/>     22 years.<br/>     23 Q. So I want to get a short biography of you.<br/>     24 Could you tell me the year that you graduated law<br/>     25 school and what bars you are admitted to?</p>  | <p style="text-align: right;">Page 11</p> <p>1 Transferred to the Army Reserve at U.S.<br/>     2 Special Operations Command in 2001, I think it was<br/>     3 February. Then later that year, right after 9/11<br/>     4 occurred, was recalled to active duty and spent<br/>     5 roughly a year and a half back on active duty.<br/>     6 Q. Where did you serve during your time on<br/>     7 active duty?<br/>     8 A. On Operation Enduring Freedom.<br/>     9 Q. Were you abroad or here?<br/>     10 A. No, I was deployed. There were multiple<br/>     11 deployments, so it's --<br/>     12 Q. So you were in -- Operation Freedom was<br/>     13 Iraq?<br/>     14 A. No.<br/>     15 Q. That was --<br/>     16 A. Operation Enduring Freedom was<br/>     17 Afghanistan.<br/>     18 Q. Afghanistan. Okay.<br/>     19 A. But it's also that region, so there were<br/>     20 deployment sites throughout the region.<br/>     21 Q. What was your job?<br/>     22 A. I was an Army special forces officer<br/>     23 assigned specifically to Special Operations Command<br/>     24 Central during that time.<br/>     25 Q. Who reported to you?</p>   |
| <p style="text-align: right;">Page 10</p> <p>1 A. Sure. Graduated law school from<br/>     2 University of Alabama Law School in 1997 and took<br/>     3 the bar. Was admitted in Alabama shortly<br/>     4 afterwards. Then actually went and did an LL.M. in<br/>     5 international trade law at Georgetown University in<br/>     6 Washington, D.C., for a year and then returned to<br/>     7 Birmingham and started as an associate at Maynard<br/>     8 Cooper in 1998. And I believe it was during that<br/>     9 year that I was also admitted to the D.C. bar, and<br/>     10 those remain the only two bars that I'm, you know,<br/>     11 that I'm a member of.<br/>     12 Q. Have you served in the military?<br/>     13 A. Yes.<br/>     14 Q. Can you give me some details about your<br/>     15 military service?<br/>     16 A. Sure. I was an ROTC student at Auburn<br/>     17 University and graduated, was given a regular Army<br/>     18 commission in 1986. And then served on active duty<br/>     19 from 1986 until 1994, first as an infantry officer<br/>     20 and then as a special forces officer.<br/>     21 And then exited military service in 1994,<br/>     22 became a Alabama national guardsman at that time,<br/>     23 serving in the reserve component during law school,<br/>     24 and then continued to serve as a national guardsman<br/>     25 until early 2001.</p> | <p style="text-align: right;">Page 12</p> <p>1 A. I'm sorry?<br/>     2 Q. Who reported to you? What kind of -- what<br/>     3 was the chain of command and where did you fit in<br/>     4 it? I just want to get an idea of it.<br/>     5 A. Well, I worked for the commander of<br/>     6 Special Operations Command Central is the best way<br/>     7 to put it. And it was -- particularly in those<br/>     8 days, you know, the early part of the deployment,<br/>     9 there were -- I'm thinking how to describe it --<br/>     10 emerging assignments, so, as a joint special forces<br/>     11 officer, joint special operations officer, so I<br/>     12 could just give you a general sense.<br/>     13 I mean, it was -- at the time when the<br/>     14 Special Operations Command was locating forward in<br/>     15 preparation for the initial operations in<br/>     16 Afghanistan, there were, you know, multiple tasks to<br/>     17 be done at that time. And so it was related to<br/>     18 that.<br/>     19 And as different projects emerged, members<br/>     20 of Special Operations Command Central would, you<br/>     21 know, form, you know, teams, if you will, not<br/>     22 necessarily what they were always called, but, you<br/>     23 know, to accomplish certain missions. And so at<br/>     24 that time I deployed probably to, I don't know,<br/>     25 seven or eight countries in that region.</p> |

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| <p style="text-align: right;">Page 13</p> <p>1 Q. So was it combat missions? You weren't<br/>2 performing legal work then at that time.<br/>3 A. No, I am not a JAG officer, so I am not.<br/>4 Like I said, I had started as an infantry officer,<br/>5 became a Special Forces officer. So throughout the<br/>6 rest of my career, my branch in the Army was Special<br/>7 Forces. As you may know, within the Army, unlike<br/>8 the other services, the Army is your branch but then<br/>9 you have something called your branch, you know,<br/>10 within that.<br/>11 And so, for example, infantry, armor,<br/>12 artillery, you know, special forces, aviation,<br/>13 things like that. So I was a special forces<br/>14 officer, and so found myself at Special Operations<br/>15 Command Central, SOCCENT as it's called. That's<br/>16 S-O-C-C-E-N-T, all caps. There -- it's a joint<br/>17 command, so it's Army, Navy, Air Force, Marines, and<br/>18 so it was -- the way I'm portraying it sounds like<br/>19 it's disorganized, but it actually isn't. You have<br/>20 a joint team that's put together for whatever the<br/>21 mission is, and at that time there were a lot of<br/>22 emerging tasks going on. So some were more, you<br/>23 know, combative than others would be one way to put<br/>24 it. It did include Afghanistan, you know, included<br/>25 a lot of other countries there within the region,</p> | <p style="text-align: right;">Page 15</p> <p>1 Q. What was your rank at the time of your<br/>2 retirement?<br/>3 A. Lieutenant colonel. And I should say also<br/>4 just, you know, for completeness and for the<br/>5 record's sake, at the time of 9/11 -- I know we<br/>6 started on my legal career first at Maynard Cooper.<br/>7 I actually left Maynard Cooper in 2000 and moved to<br/>8 Washington, D.C., to practice international trade<br/>9 law because, as I mentioned, I had gotten the LL.M.<br/>10 in international trade at Georgetown. So I was<br/>11 actually living in D.C. practicing with a different<br/>12 firm. I just wanted to make sure that -- you know,<br/>13 I haven't been at Maynard Cooper continuous all<br/>14 through.<br/>15 And so I was actually practicing at a law<br/>16 firm, King &amp; Spalding, in Washington, D.C., in their<br/>17 international trade group when September 11th<br/>18 occurred when I got recalled to active duty. And<br/>19 then when I returned from that active duty stint, I<br/>20 went back to King &amp; Spalding and then still<br/>21 practiced in D.C. until the traffic finally drove me<br/>22 away from D.C. and back to Alabama. And that's when<br/>23 I returned to Maynard Cooper.<br/>24 Q. What year did you return back to Maynard<br/>25 Cooper?</p> |
| <p style="text-align: right;">Page 14</p> <p>1 depending on what the task was at the time. And<br/>2 deployments were back and forth because there were<br/>3 different things going on in the initial stages of<br/>4 Enduring Freedom.<br/>5 Q. When did that deployment come to an end?<br/>6 A. I returned, I would say, November 2002,<br/>7 somewhere around there.<br/>8 Q. And did your military career come to an<br/>9 end as far as active duty at that point?<br/>10 A. No. Well, yes, as far as active duty,<br/>11 that was -- I had stints of active duty after that,<br/>12 but they were more what would be called TDY or<br/>13 temporary duty rather than actually going back on<br/>14 active duty. So you're serving in an active status<br/>15 but you're not back on the active rolls. You're<br/>16 doing it as a reservist, that kind of thing, so --<br/>17 Then I continued, just for completion<br/>18 here, I continued as a reserve officer serving at<br/>19 U.S. Special Operations Command, again as a special<br/>20 forces officer, not -- I've never been a JAG. I've<br/>21 never been -- you know, I get drug into legal things<br/>22 sometimes because of my civilian side and what I do<br/>23 there on occasion, but I'm not a JAG officer. So<br/>24 continued serving at USSOCOM up until 2014 and then<br/>25 in 2014 finally retired, so that's --</p>                                       | <p style="text-align: right;">Page 16</p> <p>1 A. It was late 2003.<br/>2 Q. What -- if you were to describe your<br/>3 day-to-day practice, how would you describe it, what<br/>4 areas of law?<br/>5 A. My practice is focused on international<br/>6 trade. And, you know, if I was going to say one<br/>7 thing broader, international trade and global<br/>8 anticorruption, predominantly U.S. export controls,<br/>9 you know, defense exports and then commercial dual<br/>10 use exports, economic sanctions programs that the<br/>11 U.S., you know, Government maintains.<br/>12 And then global anticorruption, U.S.<br/>13 Foreign Corrupt Practices Act, UK Bribery Act,<br/>14 things that U.S. businesses, you know, run into<br/>15 basically in doing business overseas. My practice<br/>16 is focused, I would say, about half on the defense<br/>17 industry, maybe a little bit more than half, so I<br/>18 work with a lot of, you know, defense contractors,<br/>19 government contractors. But, you know,<br/>20 predominantly the common thread is there is an<br/>21 international or international trade tie to all the<br/>22 clients that I do work for.<br/>23 Q. Have you ever been deemed an expert in<br/>24 court on any particular topic?<br/>25 A. No, I have not.</p>                                       |

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1 Q. Have you ever prepared an expert report  
2 for any particular legal matter?  
3 A. No.  
4 Q. Have you prepared an expert report in  
5 connection with this matter?  
6 A. No.  
7 Q. In the course of your military career,  
8 have you ever signed a classified information  
9 nondisclosure agreement or otherwise known as a  
10 CINA, C-I-N-A?  
11 A. Yes.  
12 Q. On how many occasions have you done that?  
13 A. I won't be able to come up with an exact  
14 answer because essentially you -- those are -- when  
15 you have a permanent change of station, you'll often  
16 have to reexecute those documents. But the  
17 classified information nondisclosure statement, the  
18 first one I signed, probably signed one as a cadet,  
19 ROTC cadet at Auburn, because there was a background  
20 investigation that was done there, although no  
21 classified information was shown at that time.  
22 But 1986 would be the first time that at  
23 Fort Bragg, my first assignment was at -- well, let  
24 me back up. Actual first assignment was on the  
25 training side at Fort Benning, Georgia. I'm sure I

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1 signed one there in 1986. And then in early 1987  
2 upon in-processing 82nd Airborne Division at  
3 Fort Bragg as an infantry officer, upon  
4 in-processing at Fort Bragg into the 82nd Airborne  
5 Division, I would have signed one there.  
6 And, you know, again, the tendency is that  
7 you would reexecute one of those documents on  
8 in-processing in most units. You know, that tended  
9 to be the way it was. Even though it's a bit  
10 redundant, they would want to make sure they had  
11 that paperwork in place. So over my entire career,  
12 is that your question, how many times would I have  
13 done that?  
14 Q. Yeah. I don't need an exact number. Is  
15 it more than five, more than ten?  
16 A. It's probably been close to ten, I would  
17 say.  
18 Q. What's the process when you signed it? Is  
19 there a formality that's attached to it?  
20 A. You just read it, sign it, because it's,  
21 you know, it's really putting you on notice of your  
22 obligations on what the standards are and -- but  
23 otherwise, there's -- different units will have  
24 different, you know, ways of doing it. Sometimes  
25 it's just merely almost a formality like other

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1 paperwork that's filled out. Sometimes it's, you  
2 know, it's more of a -- I wouldn't say a big deal,  
3 but it would be, you know, more isolated as an  
4 incident. Just really depends on administratively  
5 how it's put in front of you.  
6 And sometimes if you're in-processing into  
7 a unit, you know, it's going to be a little bit  
8 different than if you're going into a school or  
9 something like that, into a training for the next  
10 six months or something like that, then, you know --  
11 you know, if you're in a classroom of 110 other  
12 people, you know, they just hand out the forms and  
13 people are signing them and that kind of thing. But  
14 you're always given a chance to review it to make  
15 sure that you understand what the obligations are  
16 and take it seriously.  
17 Q. How about what's known as a nondisclosure  
18 compartmentalized -- sorry. Take it back. An SCI  
19 nondisclosure agreement, S-C-I capitals,  
20 nondisclosure agreement, otherwise known as a  
21 DD-1847? Are you familiar with that?  
22 A. Yes, I am. Now, I will say that I'm not  
23 certain that DD-1847 was used the first time I  
24 signed one of those, but there has always been some  
25 form of a -- what I know of as a sensitive

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1 compartmented information nondisclosure statement, I  
2 think is usually what they say rather than  
3 agreement, but essentially the same type of thing,  
4 similar to the CINA that we just talked about except  
5 this is for SCI. This one is taken significantly  
6 more seriously, as you would anticipate, because for  
7 someone to be executing one of those, that means  
8 that they are being put into an SCI billet. In  
9 other words, you know, clearance is one thing and  
10 access is another, as I'm sure you know when it  
11 comes to classification. So I am familiar with one  
12 of those documents.  
13 Q. Have you ever had occasion to sign one?  
14 A. Yes.  
15 Q. On how many occasions?  
16 A. It would be very similar to the amount of  
17 times that I signed the CINA. I started -- I signed  
18 into an SCI billet for the first time in 1986. So  
19 that's the first time. Again, I don't remember if  
20 it was a DD-1847 or not, but that's the first time I  
21 signed an SCI nondisclosure statement. And that  
22 would be -- those are done proximate to what's  
23 referred to in the field as a read-on. If you're  
24 being read on for SCI, then you're going to execute  
25 one of those documents.

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| <p>1 Q. Now, let me know if I am stating this<br/>2 correctly, but in order to be read on to an SCI,<br/>3 you'd have to have certain clearances, correct?<br/>4 A. Correct.<br/>5 Q. And what kind of clearances do you have to<br/>6 have in order to be read on to an SCI program?<br/>7 A. To my knowledge, the -- and in my<br/>8 experience you have to have a top secret clearance<br/>9 in order to be granted SCI access. And, you know,<br/>10 my further understanding is the basis for that is<br/>11 the type of security investigation that is done.<br/>12 You know, for example, sometimes people will have a<br/>13 background investigation that's done on them, what's<br/>14 termed a BI, all caps, that will allow you to get a<br/>15 certain level of clearance.<br/>16 You know, you can't -- to my knowledge,<br/>17 you cannot be granted a top secret clearance based<br/>18 on a BI. Something is required. A different kind<br/>19 of investigation, a more in-depth investigation is<br/>20 required, you know, a sensitive background<br/>21 investigation usually or a special background<br/>22 investigation. I've heard both terms used. But<br/>23 what's termed in the field as an SBI is usually the<br/>24 investigation that's necessary.<br/>25 So there is an interrelationship between,</p> | <p>1 Q. Okay. And is that because of certain<br/>2 obligations that you have that you can't answer that<br/>3 question?<br/>4 A. That's correct.<br/>5 Q. Understood. Now, in connection with a<br/>6 CIA SAP program, is there, to your knowledge, any<br/>7 kind of specific process by which you're read on to<br/>8 the program?<br/>9 A. To make sure I understand, you're asking<br/>10 specifically about a CIA program as opposed to a DOD<br/>11 or other agency --<br/>12 Q. Correct.<br/>13 A. -- program? I don't know. And I will --<br/>14 to give more context to my answer is that<br/>15 particularly in the world, in the time of<br/>16 interagency operations, the joint interagency task<br/>17 force concept which was -- really gained a lot of<br/>18 traction after 9/11 and, you know, very commonly has<br/>19 been, you know, embraced within Operation Enduring<br/>20 Freedom, Operation Iraqi Freedom and the things that<br/>21 have occurred since then, you know, different<br/>22 organizations working together, you know, commonly<br/>23 happens.<br/>24 In my experience on the DOD side, which is<br/>25 probably the closest relevance I can bring to your</p>   |
| <p>1 you know, the investigation, the clearance, and then<br/>2 again there's a question of access when you start<br/>3 talking about SCI.<br/>4 Q. Have you been given top secret clearance?<br/>5 A. Yes.<br/>6 Q. When did that first happen?<br/>7 A. 1986.<br/>8 Q. When you're read on a program, is there --<br/>9 without obviously giving me any information about<br/>10 the programs themselves, what's the process?<br/>11 A. It depends on the program. The -- and I'm<br/>12 not trying to be -- you know, truly that's the most<br/>13 accurate answer there is because some are more<br/>14 in-depth than others. Some require more. Some<br/>15 have -- some programs have, you know, requirements<br/>16 that go along with them, you know, levels of<br/>17 understanding that would be necessary to, you know,<br/>18 to manage and execute the operations within the<br/>19 program. So there's not a standard answer, but --<br/>20 Q. I understand. Also, I'll narrow the<br/>21 question down. Have you been involved ever in a<br/>22 CIA SAP program?<br/>23 A. I'm going to defer -- I'm actually -- I'm<br/>24 going to -- I'm not going to be able to answer that<br/>25 question.</p>  | <p>1 question, to gain access to a program, you would be<br/>2 read on to that program. Whether a particular<br/>3 program could involve multiple agencies is another<br/>4 issue.<br/>5 Q. So let's take a DOD SAP program. What's<br/>6 the process by which you're read on?<br/>7 A. Normally the read-on is going to be done<br/>8 by what's termed, all caps, SSO, a special security<br/>9 officer. That's going to be at an installation.<br/>10 For example, every military installation that, you<br/>11 know, maintains a -- usually you'll hear the term<br/>12 also SCIF. A lot of acronyms. All caps S-C-I-F.<br/>13 If an installation maintains a sensitive<br/>14 compartmented information facility, which is<br/>15 obviously something that would, you know, be able to<br/>16 store sensitive compartmented information, there's<br/>17 going to be a responsible SSO involved.<br/>18 And again, different commands will do it<br/>19 different ways because, again, some units might be<br/>20 all one service and they do it that service's way.<br/>21 Other units are joint and therefore are going to --<br/>22 may do it a slightly different way. But within DOD<br/>23 channels, I'm not aware of any, you know, situation<br/>24 where you would gain access to a program without<br/>25 being read on.</p> |

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1 Q. Is that a memorable event, being read on?

2 A. It probably is the first time, but if

3 you're accustomed to always having, you know, a top

4 secret clearance, for example, you're always in an

5 SCI billet, then it becomes fairly routine.

6 I mean, I think everyone knows it's a, you

7 know, it's a serious obligation because it's, you

8 know, it's information that's protected at a very

9 high level and has to be respected as such. So I've

10 never seen anyone be cavalier about it, but it's,

11 you know, it's also part of the administration and,

12 you know, what you would expect, you know, when

13 in-processing.

14 And that's typically when it's done, when

15 someone would come into a unit. You know, again,

16 SCI billets are not just thrown out there, you know,

17 at a whim. They are, you know, they are assigned at

18 particular, you know, particular units, particular

19 slots within units and that types of thing.

20 Within the special operations community,

21 as you would expect, you have quite a few SCI

22 billets within units. So, read-ons, read-offs

23 become, you know, not uncommon at all.

24 Q. What do you mean by billets? Are you

25 referring to people or information when you refer to

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1 billets?

2 A. A billet really is -- and again, this

3 is -- I'm not explaining this from the -- I'm not an

4 administrative, you know, administration is not my

5 branch within the Army, so -- but I've had to deal

6 with a lot of it. So a billet really is more

7 assigned to the position. And that's how, in my

8 experience, how SCI is assigned is that -- in other

9 words, you might hear someone say they have a top

10 secret clearance. You know, that means one thing.

11 Somebody with a top secret clearance that has SCI

12 access, that's an entirely another thing. That's a

13 different thing.

14 Because the -- you can hold the clearance

15 based on the background investigation, the level of

16 investigation that you have, and there are multiple

17 varying levels. And you may still have that

18 clearance that would travel with you from one unit

19 to the other, but it's very possible that you may be

20 at one unit and you are in a position that requires

21 you to have access to SCI and so you would be read

22 on, you know, because you would be filling an SCI

23 billet. In other words, it would be assigned to

24 that position.

25 And it's possible you could go to another

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1 unit that doesn't require SCI. A good example is if

2 somebody goes to a training assignment or something

3 like that where they're an instructor or something,

4 you know, like that as opposed to being in an

5 operational unit, that would typically be a time.

6 You may still have -- be in an SCI billet, but it

7 would probably be fewer billets and fewer need for

8 it, as you can understand, in that role.

9 So in that way some people are read on,

10 read off. But generally I'll say in my experience

11 within the special operations community it's, you

12 know, it's frequent and common in, you know, in

13 operational assignments to be in those billets.

14 Q. Now, are you familiar with Operation

15 Neptune Spear?

16 A. Yes.

17 Q. In your mind would Operation Neptune Spear

18 have been considered an SCI billet as you described?

19 A. Well, I wouldn't -- I wouldn't phrase it

20 that way, with all due respect. I mean, it's --

21 Q. That's okay. I want to know how you would

22 phrase it.

23 A. Sure. Well, the billet is assigned to the

24 position within a given unit.

25 Q. Okay.

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1 A. So whether a unit is -- you know, it's

2 just an entirely different thing from a, you know,

3 operation. Operations are done all the time and,

4 you know, may involve, you know, or be related to,

5 you know, information, things that are SCI

6 potentially. It's not necessary that an operation

7 in and of itself would be a program, although that's

8 possible. You know, it's -- that's -- they're

9 not -- I'm sure there are hard and fast rules. I'm

10 not aware of exactly, you know, what constitutes

11 becoming a program. I have some ideas, but I don't

12 know that -- it's just a matter of, you know, how

13 things are done.

14 I think I see -- I would say I wouldn't

15 make the assumption that -- I don't know whether

16 Neptune Spear was in and of itself a separate

17 program or not. I don't have that level. My level

18 of understanding and knowledge of Neptune Spear is

19 purely as a -- really as a -- in my civilian

20 capacity reading the book and seeing the same, you

21 know, press on it and things like that that you have

22 probably, so --

23 Q. Then based on your experience, I

24 understand that you would not know or have access to

25 information directly involving Operation Neptune

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| <p style="text-align: right;">Page 29</p> <p>1 Spear, but based on your experience, would you -- do<br/>   2 you have a view as to whether or not Operation<br/>   3 Neptune Spear was a special access program?</p> <p>4 MR. TOBEY: Objection. Form.</p> <p>5 A. I really don't have enough basis in the<br/>   6 actual -- since I wasn't involved in the operation,<br/>   7 I don't know. Like I said, operations are done all<br/>   8 the time that, you know, some of them necessarily<br/>   9 may involve, you know, SCI but not necessarily as a<br/>   10 separate program, although I'm sure it could be. I<br/>   11 just -- I just don't know.</p> <p>12 MR. FURMAN: I took a bit of your<br/>   13 biography off of the Maynard Cooper Gale website, so<br/>   14 I'd like to have it marked as an exhibit. It will<br/>   15 be Exhibit 134.</p> <p>16 (Exhibit 134 marked)</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. Mr. Enslen, I'll represent to you that<br/>   19 this is fairly recent that we pulled this<br/>   20 information off of the website. Just want you to<br/>   21 take a look at it and let me know if it's current or<br/>   22 it would have to be changed in any particular way.</p> <p>23 A. At quick glance, it looks to be current,<br/>   24 although I can tell you it's on my to-do list to<br/>   25 revise it because the substance of it could be</p>   | <p style="text-align: right;">Page 31</p> <p>1 A. No.</p> <p>2 Q. When did you begin representing Matthew<br/>   3 Bissonnette?</p> <p>4 A. My recollection, the first call -- I know<br/>   5 because it's my wife's birthday -- was the 12th of<br/>   6 September of 2013 was the first time that we spoke.<br/>   7 I believe the engagement with Maynard Cooper, you<br/>   8 know, may have officially occurred, you know, by,<br/>   9 you know, maybe a week or two before, sometime<br/>   10 within the prior month but sometime proximate to<br/>   11 September 2013.</p> <p>12 Q. How do you recall that you met<br/>   13 Mr. Bissonnette?</p> <p>14 A. Through one of my partners at the firm<br/>   15 became aware of him. And, you know, again, I'm not<br/>   16 sure exactly what led to their meeting, but I know I<br/>   17 was asked by my partner, you know, can you help<br/>   18 with -- you know, have you ever done, worked with<br/>   19 the Defense Office of Prepublication and Security<br/>   20 Review, to which I replied yes, that I had.</p> <p>21 And so from that my, you know, my<br/>   22 engagement or my task that I worked on with Matt was<br/>   23 to help with the prepublication security review<br/>   24 process for his forthcoming book which, again,<br/>   25 became the manuscript for the book known as <i>No Hero</i>.</p> |
| <p style="text-align: right;">Page 30</p> <p>1 updated. But by and large it looks to reflect my<br/>   2 practice and background correctly.</p> <p>3 Q. Okay. If I can just have it back. I'm<br/>   4 not going to quiz you on it, but my review of the<br/>   5 practice areas, you generally would list the<br/>   6 practice areas that you are involved in day to day,<br/>   7 generally, in terms of practice areas?</p> <p>8 A. Our marketing department probably would do<br/>   9 that. Yes, it's -- the practice's -- the way we are<br/>   10 organized as a firm, there is a lot of overlap on<br/>   11 matters. So, for example, I'm sure white collar<br/>   12 defense may be on there. I don't spend every day<br/>   13 doing that, but there are a lot of export control<br/>   14 sanctions matters that, for example, would overlap<br/>   15 with white collar defense. So, you know, we work<br/>   16 together quite a bit, for example.</p> <p>17 Same thing with, you know, international<br/>   18 business, M&amp;A folks, or different practice areas.<br/>   19 So that's a broader practice list. If you're<br/>   20 looking at it from the terms of what I actually do<br/>   21 on a day-to-day basis, you know, international<br/>   22 trade, you know, and global anticorruption would be,<br/>   23 like I said, the focus.</p> <p>24 Q. Did you know Matthew Bissonnette before<br/>   25 you undertook to represent him?</p> | <p style="text-align: right;">Page 32</p> <p>1 Q. Who was the partner? What's the name of<br/>   2 the partner?</p> <p>3 A. Andrew Kitchen.</p> <p>4 Q. And do you know how Mr. Kitchen came to<br/>   5 connect with Mr. Bissonnette?</p> <p>6 A. I believe it was through Cheney Literary<br/>   7 and Elyse Cheney.</p> <p>8 Q. Now, you mentioned the Office of<br/>   9 Prepublication Security and Review? Is that<br/>   10 correct?</p> <p>11 A. Their wordy title is Defense Office of<br/>   12 Prepublication and Security Review, so they're also<br/>   13 called DOPSR. Or you will see in some of my<br/>   14 correspondence OSR, referring to the same entity.<br/>   15 And they like to call themselves DOPSR.</p> <p>16 Q. Okay. So it's DOPSR?</p> <p>17 A. Correct.</p> <p>18 Q. I've also seen it referred to as OPSR. Is<br/>   19 that the same unit?</p> <p>20 A. I would assume that's Office of<br/>   21 Prepublication and Security Review. I would -- if<br/>   22 you're talking in the DOD context, because you do<br/>   23 realize, as you know, other agencies have a similar<br/>   24 type of office and may use that same title, but<br/>   25 within DOD I think that would be referring to the</p>  |

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| Page 33   | Page 35   |
| <p>1 same one.</p> <p>2 Q. To your knowledge, does the CIA have a</p> <p>3 prepublication security review process?</p> <p>4 A. Yes.</p> <p>5 Q. Do they have an acronym or an office that</p> <p>6 handles that?</p> <p>7 A. They have an office that handles it. I'm</p> <p>8 not sure what the acronym is.</p> <p>9 Q. Have you ever dealt with them?</p> <p>10 A. I have not dealt with them directly.</p> <p>11 Q. Now, the DO -- the Department of Defense's</p> <p>12 office, the DOPSR, you've dealt with them in the</p> <p>13 past?</p> <p>14 A. Yes.</p> <p>15 Q. Where is that office located?</p> <p>16 A. It's in the Pentagon.</p> <p>17 Q. How is it staffed?</p> <p>18 A. I'm sorry. What do you mean?</p> <p>19 Q. In other words, is there one person, three</p> <p>20 people, five people? What's the -- what's that</p> <p>21 office comprised of?</p> <p>22 A. Based on my understanding, with the caveat</p> <p>23 that I've not dealt with all aspects of it, it's</p> <p>24 more than one person I can tell you. It is an</p> <p>25 office that is -- that has multiple roles. I</p>  | <p>1 they're typically overworked and understaffed, like</p> <p>2 many organizations there.</p> <p>3 Q. That depends on your point of view.</p> <p>4 A. Yeah.</p> <p>5 Q. Tell me about your prior experience before</p> <p>6 the book No Hero with the DOPSR.</p> <p>7 A. I had, I would estimate, two or three</p> <p>8 times that I had to interface with them over export</p> <p>9 control related issues for different clients. And</p> <p>10 again, without getting into specifics of those</p> <p>11 issues, it would be generally situations where an</p> <p>12 export control jurisdiction classification decision</p> <p>13 would hinge upon the interpretation of the Defense</p> <p>14 Office of Prepublication and Security Review, or at</p> <p>15 least they would have significant input to a</p> <p>16 jurisdiction classification issue that we were</p> <p>17 trying to resolve. And so I contacted them and had</p> <p>18 dealings with them, various roles relating to that.</p> <p>19 Q. Did either -- you mentioned that it was</p> <p>20 either two or three occasions prior to your work on</p> <p>21 No Hero that you had dealt with the DOPSR, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Did any of those occasions involve the</p> <p>24 publication of a book?</p> <p>25 A. Not of a book, no.</p>   |
| Page 34   | Page 36   |
| <p>1 know -- for example, I know they have a</p> <p>2 congressional budget review responsibility. They</p> <p>3 have, you know, different areas. They do things</p> <p>4 other than just review, you know, review books,</p> <p>5 review manuscripts and things like that.</p> <p>6 They have the function to also review</p> <p>7 things, you know, that are from active service</p> <p>8 members that are, for example, making presentations</p> <p>9 or publishing things and like that, you know, within</p> <p>10 other journals and things like that. So it's not</p> <p>11 just a, you know, not just in the context of a</p> <p>12 private author's review.</p> <p>13 But again, I do know the congressional</p> <p>14 budget aspect, and I think they have a technology</p> <p>15 branch who I've come in contact with also just in</p> <p>16 the export control context because sometimes there</p> <p>17 are different overlapping issues between the State</p> <p>18 Department's Directorate of Defense Trade Controls</p> <p>19 and the Defense Office of Prepublication and</p> <p>20 Security Review. So they have a technical branch.</p> <p>21 I'm not sure how many different branches they have.</p> <p>22 Again, I know technical. I know congressional</p> <p>23 review.</p> <p>24 And then as far as the numbers of people,</p> <p>25 I don't know. I will say that in my experience</p> | <p>1 Q. So was your involvement in the book</p> <p>2 No Hero, was that the first time that you had</p> <p>3 interfaced with the DOPSR in relation to the</p> <p>4 publication of a book?</p> <p>5 A. Yes.</p> <p>6 Q. Who with the DOPSR did you deal with in</p> <p>7 connection with No Hero?</p> <p>8 A. My first call -- let me think about it</p> <p>9 because there are multiple individuals there. I</p> <p>10 believe it was Mr. Wally King is who I first called,</p> <p>11 K-I-N-G, to really find out which branch would be</p> <p>12 taking responsibility, you know, for manuscript</p> <p>13 review, and then also to clarify one issue that, you</p> <p>14 know, one threshold issue, which was that the DOD</p> <p>15 directive and instruction, which I'm sure you're</p> <p>16 familiar with, that relate to prepublication</p> <p>17 security reviews, and then some internal DOPSR, you</p> <p>18 know, guidance on, you know, how to file, you know,</p> <p>19 how to file for a prepublication security review,</p> <p>20 things like that that they had as tools to help</p> <p>21 people proceed with manuscript reviews.</p> <p>22 There was a little discrepancy where I</p> <p>23 will say there was an inconsistency as to what entry</p> <p>24 point do you want to use for this. And really what</p> <p>25 I'm specifying is that in my mind it was ambiguous</p> |

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 1 as to whether they wanted the manuscript submitted  
 2 at the component or command or agency that, you  
 3 know, had last employed the individual, because,  
 4 again, we're talking in the context of a former  
 5 service member, you know, in terms of the review,  
 6 and -- or to submit it to DOPSR directly. And so  
 7 that was my first entry point was to try to resolve  
 8 that.

9 Q. At the time that you -- well, let me just  
 10 follow up on that. Did you eventually resolve that  
 11 issue --

12 A. Yes.

13 Q. -- as to what the entry point was?

14 A. Yes.

15 Q. And how did you reach a landing on that?

16 A. Well, after asking the question, I -- you  
 17 know, we went forward with based on that guidance.  
 18 And then, of course, that guidance actually got  
 19 changed. Then later we wound up submitting it to  
 20 both, because my concern was because of all the  
 21 baggage that was still there and still existing from  
 22 the No Easy Day, you know, experience, which I was  
 23 not involved with, obviously, but I was aware that  
 24 things were going on and that, you know, I could  
 25 certainly see that, you know, anticipate that it was

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 1 going to have effects on what we were about to do  
 2 for No Hero.

3 I wanted to make sure that it went into  
 4 the right entry point because, again, the procedures  
 5 were changing, and they admitted that. I mean,  
 6 SOCOM were changing their prepublication review  
 7 procedures because I know they were getting flooded  
 8 with books all of a sudden, you know. I wouldn't  
 9 say all of a sudden actually. During that period of  
 10 time, you know, a lot of people that had been  
 11 serving in OEF, OIF, and different operations were  
 12 writing books, so they just had a lot of  
 13 manuscripts. So they were in the process of  
 14 revising their guidelines. OSR was trying to revise  
 15 their guidelines.

16 So it was really nothing more than just  
 17 trying to administratively make sure that we didn't  
 18 allow this manuscript to, you know, land in a place  
 19 where it could, you know, be delayed or, you know,  
 20 run into an unnecessary road block.

21 Q. And in your prior answer you mentioned  
 22 during -- you referenced, quote, during that time  
 23 period, close quote. Are you referring to the time  
 24 period around the publication of No Easy Day?

25 A. Well, in the context of saying the reason

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 1 they were rewriting their regs was because they were  
 2 getting flooded with manuscripts, if that's -- if  
 3 that's what you're referring to, yeah, I'm talking  
 4 about, you know, as OEF, OIF, which had both been  
 5 underway for a number of years at that point, had a  
 6 lot of veterans that were writing books, and so my  
 7 understanding is every single year they were getting  
 8 more and more manuscripts from service members.

9 So, again, I realize that it was, you  
 10 know, there was quite a bit of workload in that  
 11 area. So that, A, was understandable to me as to  
 12 why they would be revising their regs and, B, made  
 13 me realize I wanted to make sure that we did it the  
 14 most efficient way possible.

15 Q. I understand. I just want to know what  
 16 time period you're referring to that the regs were  
 17 being revised.

18 A. Well, the specific time that I was having  
 19 these conversations would have been December 2013  
 20 and into January of 2014.

21 Q. At the time that you submitted No Hero for  
 22 review, did you have any idea of the time period it  
 23 would take for the book to be -- for the security  
 24 review to be completed?

25 A. Well, I was aware of their guidelines,

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 1 which you can find in some guidelines 30 working  
 2 days. I believe you can also find, you know, 45  
 3 days, unspecified whether working or not. So I knew  
 4 that was kind of a target time, but I was also, you  
 5 know, anticipating -- you know, I was anticipating  
 6 and, you know, frankly concerned about, you know,  
 7 the spillover effect from No Easy Day and making  
 8 sure that that did not in any way, you know,  
 9 prejudice the process for No Hero. That really was  
 10 my, you know, was my focal point.

11 Q. Since working with Mr. Bissonnette on  
 12 No Hero in connection with the review process, have  
 13 you assisted other military authors since that time?

14 A. Yes.

15 Q. On how many occasions?

16 A. Two.

17 Q. What books?

18 A. They're not released yet, so they're both  
 19 through the process but have not -- have not been  
 20 published, so I don't want to talk about ongoing --  
 21 I can't talk about ongoing client matters.

22 Q. That's totally fine. I won't ask you any  
 23 specifics, but could you tell me when those two  
 24 books were submitted to the DOPSR?

25 A. I'll have to think, this being off the top

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1 of my head. I really would like to go -- I might be  
 2 able to even check, you know, on my system at the  
 3 next break or something like that and even try to  
 4 come up with date parameters because I don't want  
 5 to -- I don't want to give you incorrect answers,  
 6 but it was definitely after No Hero was -- that we  
 7 were complete with not only the initial manuscript  
 8 review but also the appeal, and it was subsequent to  
 9 the time that No Hero was published. I realize -- I  
 10 remember that.

11 Q. Do you remember what year those two books  
 12 were --

13 A. Yes, the next one would have been filed in  
 14 2015, in mid-2015.

15 Q. And at this point it has not yet been  
 16 published?

17 A. No, it has not. It's forthcoming soon,  
 18 but --

19 Q. Okay. Has it been through the review  
 20 process?

21 A. Yes, it has.

22 Q. When did the review process -- when was  
 23 that completed?

24 A. The initial review?

25 Q. Yes.

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1 first, and then they decide what other reviewing  
 2 components need to see this and what portions do  
 3 they need to see. And the submitter is not entitled  
 4 to know that information because of the, you know,  
 5 just because of the way that OSR, you know, proceeds  
 6 with the reviews.

7 And then they will send it out to those  
 8 reviewing components, and then they may get an  
 9 answer the next day back from one of them or another  
 10 reviewing component could take a little bit more  
 11 time, depending on the complexity, its own personnel  
 12 status, things like that. And then OSR will  
 13 consolidate those answers and that input and  
 14 presumably deconflict, you know, and things like  
 15 that.

16 But again, that's not something that the  
 17 author is going to have any -- or the author's  
 18 attorney is going to have, you know, visibility over  
 19 their discussions but not -- it's not pure  
 20 visibility over that. So understand that that's why  
 21 there are so many variables that are in one of  
 22 those.

23 But I will say that, you know, typically  
 24 I've found that OSR always -- they always strive to  
 25 meet their -- the target of their guidelines to try

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1 A. Well, again, this is --  
 2 Q. The final review. What I'm trying to get  
 3 at is I just want to understand of these two books  
 4 when they were submitted to the DOPSR and when each  
 5 of those books were finally approved in whatever  
 6 form for publication.

7 A. Right. Well, and to give clarity to how  
 8 I'll wind up responding to that, and again, I want  
 9 to go check some dates to make sure I don't give you  
 10 incorrect dates on that, on either of these other  
 11 two projects, but the process is always there's the  
 12 initial manuscript review and then there's the  
 13 decision by the author as to whether -- assuming  
 14 there are redactions of some sort as to whether they  
 15 want to challenge those redactions and mount an  
 16 appeal. And then it runs through that process  
 17 really a second time, essentially, during the appeal  
 18 phase.

19 So the length of time one takes is, you  
 20 know, largely affected by whether or not there is an  
 21 appeal. And then there are, you know, frankly every  
 22 book is different because it depends on how many  
 23 other components are involved. And I should give  
 24 this also to add some clarity. You know, the DOPSR  
 25 reviews a book, a manuscript that they receive

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1 to get it as quickly as possible, if nothing more  
 2 than the fact that they've always got a pretty  
 3 steady workload of these coming in and want to clear  
 4 these out as fast as they can. But again, they're  
 5 held to the -- they're held to the reviewing  
 6 component time schedule.

7 Q. And there comes a point in time after OSR  
 8 receives the manuscript and after there's an appeal  
 9 process when the book in one form or another is  
 10 approved for publication. Is that fair to say?

11 A. Well, when you get the -- after the  
 12 initial manuscript goes into OSR and after that  
 13 initial review is done, they will send back to you  
 14 the manuscript which will either be, you know,  
 15 approved for public release as amended or approved  
 16 with recommendations, or they can, you know, not  
 17 approve it. I've not seen that happen, but -- so  
 18 there are different ways, but typically what they'll  
 19 do is presumably there are -- I've never seen a  
 20 situation where there wasn't some sort of redaction,  
 21 you know, in there.

22 And so you'll get that back and you get a  
 23 redacted manuscript back. It's approved, you know,  
 24 in my experience, generally approved for public  
 25 release as amended and you can publish that one if

1 you want to. That's when you hit that decision  
 2 point of, you know, looking at, you know, what was  
 3 redacted. And then the author obviously has the  
 4 chance of, you know, accepting redactions,  
 5 proposing -- or appealing. And then during that  
 6 appeal you can propose rewrites, you can challenge  
 7 the basis for, you know, a redaction itself, you  
 8 know, asking for the redaction to be lifted, you  
 9 know, or really however you want to do it.  
 10 I will say the appeal process is a little  
 11 more amorphous and nonspecific, you know, in terms of  
 12 how it happens. What is specific is you've got 60  
 13 days from the time that you get that initial  
 14 manuscript to file an appeal or you're barred from  
 15 being able to appeal it. So that's generally how  
 16 their process runs. And, you know, that's -- the  
 17 appeal process is -- again, you don't have  
 18 visibility over it, but depending on what you're  
 19 appealing, it may or may not have to go back to  
 20 everybody that looked at the initial one. You know,  
 21 it's more of a rifle shot at that point rather than  
 22 a broad, you know, broad approach, so --  
 23 Q. And when you mention amorphous, it's  
 24 amorphous in the sense that the -- during the appeal  
 25 process the OPSR or OSR --

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1 classified conversation and they're not going to do  
 2 that with, you know, with a submitter.  
 3 So that's why I say -- when I say amorphous  
 4 about the appeal process, it's amorphous in that  
 5 other than having the right to appeal, you're not  
 6 told exactly how to appeal certain things. And  
 7 frankly, the reason for that is that you don't know  
 8 why they redacted something and why they didn't or  
 9 why they, you know, didn't redact something else or  
 10 that kind of thing. So you have to assert your  
 11 arguments that way. That's really the art of trying  
 12 to, you know, gain more of the text for the book,  
 13 you know. So that's what I mean by amorphous.  
 14 Q. If we leave a space in the transcript,  
 15 would you be able to fill in, and we'll call it  
 16 books 1 and 2, the dates that books 1 and 2 after No  
 17 Hero were submitted to the DOPSR and when they were  
 18 finally in a position to be published, having gone  
 19 through the process of appeals and the review  
 20 process? Would you be able to fill in those dates?  
 21 MR. TOBEY: Do you mean the first date  
 22 when you get the preliminary response by the DOPSR  
 23 or the date when everybody said we're good with  
 24 this?  
 25 MR. FURMAN: The latter.

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1 A. Either one, same place.  
 2 Q. The OSR could decide to send the book to  
 3 various agencies and there's no control over when,  
 4 if and when it gets a response? Is that fair to say  
 5 or --  
 6 A. No, that's not what I mean by amorphous.  
 7 By amorphous meaning that there's not a definitive,  
 8 you know, if you want to challenge this, do it this  
 9 way; if you want to challenge that, do it that way.  
 10 It's more of a, you know, depending on how you want  
 11 to challenge it because there can't be discussions  
 12 about particular redactions. They won't discuss  
 13 that with you because OSR has to treat this -- they  
 14 have to treat it as a classified situation to begin  
 15 with.  
 16 So, you know, they will -- my  
 17 understanding and experience has been that they will  
 18 always do this on, you know, I believe they do it on  
 19 a, you know, classified system whether it's SIPRNet  
 20 or whatever system they decide to use. It's a  
 21 closed type of thing. So you won't have a  
 22 conversation where they say, hey, this agency wants  
 23 to, you know, doesn't like the way you said this,  
 24 they want this or whatever. You don't have that  
 25 kind of interchange because that would be a

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1 MR. TOBEY: The latter?  
 2 MR. FURMAN: When everyone says they're  
 3 good with it.  
 4 Information Requested: \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 BY MR. FURMAN:  
 7 Q. So I don't need the blow-by-blow. What  
 8 I'm asking for is when the book, books 1 and 2 were  
 9 submitted to the DOPSR and when it was finally  
 10 through the review process and all the various  
 11 appeals and when it was deemed ready to be  
 12 published. I take it that neither book has been  
 13 released. Is that correct?  
 14 A. That's correct. I mean, to answer your  
 15 question, I don't mind giving general parameters.  
 16 If I'm going to give more specifics, I would need to  
 17 check with those clients to make sure. Even though  
 18 I'm not going to specify who they are, they're -- it  
 19 wouldn't be too hard to figure out, you know. You  
 20 know, if -- so just I would like to get their  
 21 permission to be able to --  
 22 Q. That's fair enough.  
 23 A. -- to release that information.  
 24 Q. And if it becomes an issue, you can let  
 25 Mr. Tobey know and we can resolve that issue if we

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ALAN ENSLEN

January 24, 2017

MATTHEW BISSONNETTE vs KEVIN PODLASKI

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|---|---|
| <p style="text-align: right;">Page 49</p> <p>1 need to with the court.<br/>     2 A. Okay.<br/>     3 Q. And I'll close the door on my questions<br/>     4 about books 1 and 2, but were either one of them a<br/>     5 firsthand account of a military operation?<br/>     6 A. Yes. Both of them were.<br/>     7 Q. We're going to take a break for Karen's<br/>     8 sake. She's been working very diligently for the<br/>     9 past hour and some, but just a few more questions.<br/>     10 To the best of your knowledge, have there<br/>     11 been any other firsthand accounts published directly<br/>     12 by an operator in connection with Operation Neptune<br/>     13 Spear other than Mr. Bissonnette's book No Easy Day?<br/>     14 A. I'm sorry. Can you read back the<br/>     15 question, please?<br/>     16 MR. FURMAN: I don't know if I can restate<br/>     17 it.<br/>     18 THE REPORTER: Question: "To the best of<br/>     19 your knowledge, have there been any other firsthand<br/>     20 accounts published directly by an operator in<br/>     21 connection with Operation Neptune Spear other than<br/>     22 Mr. Bissonnette's book No Easy Day?"<br/>     23 A. Specifically about Neptune Spear, I'm<br/>     24 trying to remember the name of the guy. It's -- I<br/>     25 believe it's the last name Mann. I believe he has a</p> | <p style="text-align: right;">Page 51</p> <p>1 that were on the ground in Abbottabad."<br/>     2 MR. FURMAN: And you can put a question<br/>     3 mark at the end of it, Abbottabad, yeah.<br/>     4 A. Again, I believe that there are operators<br/>     5 that were involved in it that have written. I'm<br/>     6 aware that an individual who goes by the name<br/>     7 Robert O'Neill has written and spoken fairly<br/>     8 extensively about his involvement.<br/>     9 But again, I don't -- and it's not<br/>     10 something that I necessarily would know. There very<br/>     11 likely could be books out there that -- I mean, I<br/>     12 don't peruse every book that comes out, obviously,<br/>     13 and have the time to do that, but my general<br/>     14 understanding is there are other -- I'd be surprised<br/>     15 if there aren't other operators that have at some<br/>     16 point written that.<br/>     17 But other than Rob O'Neill -- and again, I<br/>     18 said the name. I think it's -- I think Mann is the<br/>     19 last name. And I'm not sure if Howard Wasdin's book<br/>     20 included any of that. So those could include it and<br/>     21 I'm not aware of it because I haven't read those<br/>     22 books, but I know those were guys in that same unit.<br/>     23 BY MR. FURMAN:<br/>     24 Q. I just have a few follow-up questions,<br/>     25 then we'll take a quick break.</p> |
| <p style="text-align: right;">Page 50</p> <p>1 book that includes his involvement. And I may have<br/>     2 his name wrong. But I believe there are a couple of<br/>     3 other NAVSPECWARCOM or SEALs that were involved in<br/>     4 that operation that have written on it.<br/>     5 I'm certainly aware of, you know, the<br/>     6 operation being written about by Secretary Gates and<br/>     7 Secretary Panetta and General McChrystal and people<br/>     8 at that level.<br/>     9 BY MR. FURMAN:<br/>     10 Q. I understand that other people that were<br/>     11 involved with Operation Neptune Spear have written<br/>     12 the various accounts about it, but what I'm<br/>     13 referring to is operators that were on the ground in<br/>     14 Abbottabad.<br/>     15 A. Abbottabad.<br/>     16 Q. I don't know if I --<br/>     17 A. I know what you mean.<br/>     18 Q. That were on the ground in Abbottabad. I<br/>     19 forgot my question.<br/>     20 MR. FURMAN: Can I have it read back,<br/>     21 Karen, just so I can try to polish that up?<br/>     22 THE REPORTER: Question: "I understand<br/>     23 that other people that were involved with Operation<br/>     24 Neptune Spear have written the various accounts<br/>     25 about it, but what I'm referring to is operators</p>   | <p style="text-align: right;">Page 52</p> <p>1 In connection with the DOPSR process when<br/>     2 you represent a client, is that something you would<br/>     3 consider to be a specialized area of law or a<br/>     4 particular area of law?<br/>     5 A. I would say it's specialized, you know, in<br/>     6 the way, same way that regulatory, you know, matters<br/>     7 are specialized. you know, but it's a fairly narrow<br/>     8 area too, so there are not a lot of people that<br/>     9 exclusively do that.<br/>     10 As I said, it's dealing with different<br/>     11 government agencies to resolve, you know, regulatory<br/>     12 issues and run through regulatory processes.<br/>     13 It's -- whether that's considered specialized, I<br/>     14 assume. I consider international trade to be, you<br/>     15 know, kind of a specialty niche practice, so I would<br/>     16 consider it probably a subset of that, in my<br/>     17 context.<br/>     18 Q. Do you need to have any kind of particular<br/>     19 training or background in order to represent a<br/>     20 client as a lawyer before the DOPSR?<br/>     21 A. No. There's no special certification or,<br/>     22 you know, or requirement that's out there that I'm<br/>     23 aware of.<br/>     24 Q. Do you need to have any kind of security<br/>     25 clearance in order to represent a military author</p>                            |

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| 1 who is writing a firsthand account of a military<br>2 operation?   | Page 53 | 1 there's a way to soften this or that or something<br>2 like that. That has been done on occasion just to<br>3 try to make something more likely to, you know, to<br>4 not get redacted during the process. But again,<br>5 it's an inexact science.  | Page 55 |
| 3 A. There's no requirement for that.<br>4 Q. What if you have a suspicion or a<br>5 reasonable basis to believe that the information  |         |  |         |
| 6 that's in the manuscript has classified information?<br>7 What does a lawyer do at that point?   |         |  |         |
| 8 A. Well, there's obviously not a procedure as<br>9 to what a lawyer would do. I think that's up to the<br>10 individual lawyer as to how he would react to that.<br>11 So I can't speak to others, you know. I can tell<br>12 you that, you know -- would you like me to answer<br>13 that for how I would deal with it or --  |         |  |         |
| 14 Q. Yes.   |         |  |         |
| 15 A. When I will take a, you know, engagement<br>16 for a former service member, I mean, the starting<br>17 point obviously is to look at what they've signed,<br>18 what their obligations are with regard to their<br>19 clearance and their access and everything like that<br>20 so that we know, you know, can pinpoint exactly what<br>21 their responsibilities are to the government.   |         |  |         |
| 22 Then when I would go through it, I would<br>23 be looking for things that, you know, what I might<br>24 think would be sensitive. And I can tell you that<br>25 because at the end of the day it doesn't really   |         |  |         |
| 1 matter what the attorney thinks is -- would be<br>2 deemed classified or not. It's helpful because it<br>3 shows you how to drill down on certain areas that<br>4 could be problems, but at the end of the day it's<br>5 the reviewing components the DOPSR sends the<br>6 manuscripts to. It's their opinion that matters<br>7 exclusively, you know, subject to the appeal<br>8 process, I would say.  | Page 54 | 1 nondisclosure statement, that's going to be two<br>2 different worlds, you know, in terms of, you know,<br>3 potentially, from their obligations because one<br>4 carries, you know, much, you know, a much heavier<br>5 burden, understandably, as to, you know, as to what<br>6 your obligations to the government would be.   | Page 56 |
| 9 And I think that's why there's not a<br>10 requirement that you take this to someone who has<br>11 that clearance. It's obviously helpful in a<br>12 pragmatic sense and I think it might give the<br>13 government a little bit of credit or a little bit of<br>14 comfort, I should say, not credit, but I've never<br>15 heard that from the government. That's just my, you<br>16 know, presumption.   |         |  |         |
| 17 So I would be looking for things that if<br>18 they are, you know, if they're sensitive. You know,<br>19 and in all of my experiences, the authors, you know,<br>20 are not trying to push the envelope. They're not<br>21 trying to, you know, say something they know they<br>22 shouldn't say or anything like that. So it's<br>23 usually more of an analysis of, you know, just based<br>24 on experience, their -- this is going to come close<br>25 to the line, you know, if you can rewrite this or if |         | 7 So I would have to have -- I would want<br>8 to, before getting to what I'll call step three,<br>9 what I think you've just called step two, before<br>10 getting to that, I would want to make sure I knew<br>11 what their obligations are and therefore the<br>12 parameters that the U.S. Government would be, you<br>13 know, would be evaluating their submission.<br>14 And then, yes, correct, I would then look<br>15 for areas that I would think might create concerns,<br>16 draw attention or, you know, create a problem during<br>17 the review process.<br>18 Q. And if I understand in your answer in<br>19 connection with the second point, which is once you<br>20 get a handle on those obligations, you would have to<br>21 examine them because you said that there's a<br>22 difference between, for example, signing a CINA as<br>23 opposed to an SCI nondisclosure agreement.<br>24 A. Right.<br>25 MR. FURMAN: So why don't we just take a |         |

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|---|---|
| <p style="text-align: right;">Page 57</p> <p>1 quick break and give Karen's fingers a little bit of<br/>2 a break and then we'll resume. Is that all right?<br/>3 MR. TOBEY: Yeah, let's do that. And what<br/>4 we'll do is bring in lunch for those who want it in,<br/>5 say, an hour.<br/>6 (Recess from 11:52 to 12:26)<br/>7 BY MR. FURMAN:<br/>8 Q. Mr. Enslen, I just want to follow up on a<br/>9 couple of questions before I go into a new area.<br/>10 Other than Mr. Johnston and Mr. Tobey, have you<br/>11 spoken to other lawyers about the Bissonnette versus<br/>12 Podlaski matter?<br/>13 A. The only other lawyer that I can think of<br/>14 would be within my own firm. Is that --<br/>15 Q. I won't ask you about that. Is that<br/>16 Mr. Kitchen?<br/>17 A. Yes.<br/>18 Q. To the best of your knowledge, is he a<br/>19 witness in this particular case?<br/>20 A. No.<br/>21 Q. Have you spoken to Mr. Mark Zaid, Z-A-I-D?<br/>22 A. I have not.<br/>23 Q. And when I say spoken, I mean communicated<br/>24 any way, e-mail, fax --<br/>25 A. No.</p>                        | <p style="text-align: right;">Page 59</p> <p>1 in general terms, is a firsthand account of the<br/>2 killing of Osama bin Laden which was comprised in<br/>3 Operation Neptune Spear?<br/>4 A. I think it's fair to say that's the<br/>5 predominant operation that's discussed in there.<br/>6 There are obviously other issues that -- other<br/>7 background of Mark Owen that I recall from it, but<br/>8 the gist.<br/>9 Q. And is No Hero a different book?<br/>10 A. Yes, in that it's a leadership book but<br/>11 drawn on many of the same -- many of the same<br/>12 parallels from No Easy Day. But, yes, it's a<br/>13 predominantly, I would call it, a leadership book.<br/>14 Q. Does No Hero describe in detail any<br/>15 specific operations?<br/>16 A. I do believe there are -- there are<br/>17 anecdotes, operational anecdotes in there. It<br/>18 doesn't purport, you know, soup to nuts to cover any<br/>19 particular, you know, operation. But much of the<br/>20 same subject matter is covered.<br/>21 Q. What would you describe as being different<br/>22 about No Hero as opposed to No Easy Day?<br/>23 A. Well, as I said, I think it's an evolution<br/>24 of a story obviously that Mr. Bissonnette wants to<br/>25 tell about to relate his experiences from his</p> |
| <p style="text-align: right;">Page 58</p> <p>1 Q. -- or otherwise verbal communications.<br/>2 Have you spoken to an expert whose last name is<br/>3 Slottje, and I'll spell it, S-L-O-T-T-J-E?<br/>4 A. I have not.<br/>5 Q. Have you spoken to -- he's not a lawyer<br/>6 but a witness -- Ben Sevier?<br/>7 A. I have not spoken to Ben Sevier about this<br/>8 matter at all. I did have conversations with Ben<br/>9 about No Hero when we were going through that<br/>10 process.<br/>11 Q. So you didn't have conversations with<br/>12 Mr. Sevier about the lawsuit involving No Easy Day?<br/>13 A. No, I did not.<br/>14 Q. And when I say the lawsuit, I'm meaning<br/>15 this particular lawsuit --<br/>16 A. This matter.<br/>17 Q. -- that you're testifying in connection<br/>18 with.<br/>19 How about Elyse Cheney, have you spoken to<br/>20 her about this case?<br/>21 A. No, I have not.<br/>22 Q. Now, I'm looking at the two books that are<br/>23 in front of you, No Easy Day, Exhibit 132, and<br/>24 No Hero, Exhibit 133.<br/>25 Is it fair to say that No Easy Day, just</p> | <p style="text-align: right;">Page 60</p> <p>1 service as a, you know, as a SEAL and then as a<br/>2 Dev group member and apply it to -- allow other<br/>3 people to apply it to their lives.<br/>4 So in that evolutionary sense, No Hero<br/>5 is -- you know, that's why I keep calling it a<br/>6 leadership book. Just the way it's organized is,<br/>7 you know, leadership principles and then operational<br/>8 anecdotes, you know, tied to that.<br/>9 Q. Now, with No Hero, was the book submitted<br/>10 for a prepublication review?<br/>11 A. Yes.<br/>12 Q. Did you review the manuscript before it<br/>13 was submitted for a prepublication review?<br/>14 A. Yes.<br/>15 Q. Did you obtain any kind of security<br/>16 clearance in order to review the book prior?<br/>17 A. I did not, no.<br/>18 Q. Did you --<br/>19 A. I will say this.<br/>20 Q. Did you believe it was necessary?<br/>21 A. No, I did not. But part of that, part of<br/>22 the reason, one, it's not required. Two, I did<br/>23 hold -- I was holding a TS/SCI at the time. Again,<br/>24 that's, you know, not a requirement, but that's, you<br/>25 know, another thing that, you know, as I mentioned</p>   |

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| <p>1 earlier I think in my testimony is that it's<br/>     2 something that while it's not going to change the<br/>     3 way that OSR deals with you, it probably does<br/>     4 provide a little bit of comfort on the front end to<br/>     5 have somebody that's, you know, that is holding a<br/>     6 clearance that, you know, does have a clearance to<br/>     7 be able to look at it. But again, it's not a<br/>     8 requirement.</p> <p>9 Q. Was there any material in No Hero, to the<br/>     10 best of your knowledge, that was classified<br/>     11 information?</p> <p>12 A. No.</p> <p>13 Q. How would you know that?</p> <p>14 A. Well, that's what I -- again, with what I<br/>     15 said before, in my view there wouldn't be anything,<br/>     16 but that really doesn't matter because I'm not the<br/>     17 reviewer of it. There were -- just like with any<br/>     18 book that I've looked at, there are areas where you<br/>     19 could tell that there might be some concerns about<br/>     20 it, just -- or it might be closer to a concern.</p> <p>21 And I will say that that is part of the<br/>     22 pre-review process that I think a, you know, an<br/>     23 attorney that's assisting or anybody that's<br/>     24 assisting somebody in submitting a manuscript is<br/>     25 going to do, going to look at it and see this is</p>  | <p>1 A. Yes.<br/>     2 Q. Okay.<br/>     3 A. It was early -- it was -- I want to say it<br/>     4 was like the 7th, 8th or 9th, maybe the 6th. It was<br/>     5 somewhere within that first full week of January, as<br/>     6 I recall.<br/>     7 Q. Who did you hear back from? Or let me<br/>     8 strike that.<br/>     9 When did you hear back from the DOPSR in<br/>     10 relation to No Hero?<br/>     11 A. Well, actually it was first submitted to<br/>     12 USSOCOM. As I believe I mentioned earlier, there<br/>     13 was a little bit of a discrepancy or at least enough<br/>     14 of a gray area in my view of exactly who the --<br/>     15 where the entry point was going to be for this book<br/>     16 based upon the guidelines, you know, that existed<br/>     17 coming from DOPSR.<br/>     18 So the two candidates for submission<br/>     19 obviously were USSOCOM or straight DOPSR. I think I<br/>     20 mentioned earlier that my initial call was to<br/>     21 Mr. Wally King at DOPSR who confirmed for me that,<br/>     22 yes, go ahead and submit it to, you know, to the<br/>     23 component first, so which means SOCOM. Then later<br/>     24 that got amended somewhat to say go ahead and send<br/>     25 it to us as well. So they both got it.</p>   |
| <p>1 likely to be a problem, because in some cases things<br/>     2 can be rewritten or smoothed out. If someone has<br/>     3 not ever submitted a manuscript for prepublication<br/>     4 review, if it's the first time for an author doing<br/>     5 that, they're not going to be aware of, you know,<br/>     6 certain things or may not be aware of certain things<br/>     7 that could cause the government more concern.<br/>     8 But again, as I mentioned earlier, there<br/>     9 are so many variables in the process of the review,<br/>     10 you don't know which reviewing components it's going<br/>     11 to or what, you know, what the exact parameters of<br/>     12 analysis are going to be from there in, so it's, you<br/>     13 know, it's really just a preliminary type of thing.<br/>     14 I've never had a situation where something jumped<br/>     15 out at me as being so, you know, clearly problematic<br/>     16 that it had to be redacted before you ever submitted<br/>     17 it.<br/>     18 Q. When did you -- you don't have to give me<br/>     19 an exact date. I'd just like to know the month and<br/>     20 the year that you submitted the book No Hero for a<br/>     21 prepublication review.<br/>     22 A. January 2014.<br/>     23 Q. And if you had to check your records,<br/>     24 could you specify the date that you submitted the<br/>     25 book for a review?</p> | <p>1 So who I heard from first, to answer your<br/>     2 question, I'm sure I heard from the USSOCOM public<br/>     3 affairs officer acknowledging receipt.<br/>     4 Q. Did SOCOM then advise you one way or the<br/>     5 other about any redactions or concerns they had in<br/>     6 connection with the book?<br/>     7 A. My recollection is that SOCOM, you know,<br/>     8 immediately or close to the time, within days,<br/>     9 realized that it was going to DOPSR as well and<br/>     10 therefore they backed off and then just assumed that<br/>     11 they were going to receive it, as they did, in due<br/>     12 course from DOPSR.<br/>     13 So there was no -- no substantive comment<br/>     14 back from SOCOM other than the fact that I recall<br/>     15 the PAO saying that they've, you know, they had a<br/>     16 high volume of, you know, high volume of books to<br/>     17 review.<br/>     18 Q. Did you get a substantive response from<br/>     19 DOPSR?<br/>     20 A. Yes, as soon as we submitted it to DOPSR,<br/>     21 which was within a couple of days of the time it<br/>     22 went to SOCOM, so it was still early January, and<br/>     23 then started the process of discussions with them.<br/>     24 The first step for them is for themselves<br/>     25 to review, you know, the book to determine, you</p> |
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| <p style="text-align: right;">Page 65</p> <p>1 know, I'm assuming, among other things, probably<br/>   2 what reviewing components need to see this and what<br/>   3 portions do they need to see. So that's not an<br/>   4 instantaneous process, obviously, for DOPSR to do.<br/>   5 So I did hear back from DOPSR that they<br/>   6 had it. There's always an issue as to how many<br/>   7 copies did they need, you know, whether it's hard<br/>   8 copy or on a disk. That's kind of a -- you know,<br/>   9 sometimes that will change based upon how they're<br/>   10 going to do the review, who's going to do the<br/>   11 review. At least in my experience it sometimes<br/>   12 changes. So most of the response back initially<br/>   13 from DOPSR I will say was more administrative.<br/>   14 There -- I will say there was an<br/>   15 acknowledgment from DOPSR in a conversation, a phone<br/>   16 conversation, where, I mean, they knew that this was<br/>   17 the same author that was involved in, you know, that<br/>   18 had written No Easy Day. So that connection, you<br/>   19 know, while it was not made in the submission cover<br/>   20 letter, you know, that we sent, they certainly knew<br/>   21 it immediately. So that was the -- that was the<br/>   22 first feedback we got.<br/>   23 Q. When did you hear substantively one way or<br/>   24 the other from the DOPSR?<br/>   25 A. And when you say that, do you mean when</p> | <p>1 distributed to the reviewing components, and<br/>   2 that's -- that's more of a, okay, it's made it<br/>   3 through that next gate. So now you know it's in the<br/>   4 hands of the reviewing components, and so at that<br/>   5 point the question for OSR is, if you can get them<br/>   6 to tell you, is what's your internal suspense to get<br/>   7 it back from those reviewing components.<br/>   8 And again, I'm just trying to -- because<br/>   9 there's expectation management going on. Obviously<br/>   10 the publisher is interested in, you know,<br/>   11 everything's time sensitive to them. And so I<br/>   12 believe that everybody knows the guidelines that OSR<br/>   13 is trying to meet, and so it's just trying to<br/>   14 constantly have kind of a Sit Rep, as we would say,<br/>   15 in terms of what the status is.<br/>   16 Q. I appreciate your response, but my<br/>   17 question to you is, when did you hear back from the<br/>   18 DOPSR?<br/>   19 A. Probably within 48 hours of the time that<br/>   20 I sent them the first -- the submission, I heard<br/>   21 back from them that they had it.<br/>   22 Q. What I mean is, I'm not asking about the<br/>   23 administrative acknowledgment. That's obvious. But<br/>   24 the -- when you heard back from the DOPSR after the<br/>   25 various reviewing components had completed their</p> |
| <p style="text-align: right;">Page 66</p> <p>1 did they send back an approved manuscript?<br/>   2 Q. Or an edited, any kind of substantive<br/>   3 comment on the manuscript.<br/>   4 A. Well, it's a continual process. Once they<br/>   5 get it, obviously we don't just, you know, wait to<br/>   6 hear from them. We try to be proactive, and I think<br/>   7 that's what you have to do because you have to keep<br/>   8 it in front of them because they're -- again, they<br/>   9 have a lot of tasks.<br/>   10 And so I would have frequent<br/>   11 conversations. Now, they weren't long and they<br/>   12 weren't necessarily substantive, but it was usually<br/>   13 on status, you know, where is it at, where is it at,<br/>   14 is it moving forward, things like that, because, you<br/>   15 know, common sense told us that it could lag, you<br/>   16 know, if not, you know, if not encouraged to be<br/>   17 distributed, potentially. So we didn't want to take<br/>   18 that risk.<br/>   19 And so there was a -- again, I can't come<br/>   20 up with a number as to how many conversations there<br/>   21 were, but, you know, definitely every week,<br/>   22 sometimes multiple times a week when it was at<br/>   23 stages of, you know, being initially evaluated.<br/>   24 And then once it was -- I remember getting<br/>   25 the word from DOPSR that, okay, it has been</p>   | <p>1 review.<br/>   2 A. After the final one had come in and DOPSR<br/>   3 was then -- and I'm not trying to, you know, play<br/>   4 games with you here. I just want to make sure that<br/>   5 the process -- let me say this about the process,<br/>   6 and then I will answer your question.<br/>   7 Once the -- all of the reviewing<br/>   8 components get, you know, give their responses back<br/>   9 to DOPSR, they then go through a process of, you<br/>   10 know, of deconflicting, of seeing if they agree with<br/>   11 the redactions, if, you know -- and again, they<br/>   12 don't clue you in on that. I know that's what<br/>   13 they're doing. So that takes awhile. It's not like<br/>   14 they just get a response back and say here it is.<br/>   15 They go through that process as well, which they're<br/>   16 usually trying to get that done within a week or so.<br/>   17 So I would say that I probably heard back<br/>   18 from them and my recollection is late March maybe,<br/>   19 toward the end of March.<br/>   20 Q. That's the March of -- late March of 2014?<br/>   21 A. Correct.<br/>   22 Q. And what substantively did -- information<br/>   23 did you receive from DOPSR about the manuscript that<br/>   24 was submitted?<br/>   25 A. At that time I was told that we've gotten</p>  |

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 1 all the responses back, we are going through our  
 2 process of synthesizing it, and once we have a  
 3 completed manuscript, redacted manuscript, then it  
 4 will have to go through the approval chains here for  
 5 release and then we'll be sending it to you.

6 And so, as I mentioned before, we were  
 7 obviously in contact with them during that interim  
 8 period to make sure that that process continues to  
 9 move along as quickly as possible.

10 And then my recollection is that it was  
 11 sometime in early April, maybe the 7th of April. I  
 12 believe we provided documents that would have that  
 13 in there. We could -- but my recollection is  
 14 sometime early April that we got the, you know,  
 15 approved-as-amended manuscript back from DOPSR.

16 Q. And the manuscript that you received back  
 17 that was reviewed by the DOPSR and I take it to the  
 18 best of your knowledge one or several reviewing  
 19 components, was that the form in which that book was  
 20 published, or was there an appeal process?

21 A. The author elected to file an appeal, so  
 22 that was not the form that it was -- that was  
 23 published.

24 Q. When did that appeal take place? You  
 25 don't have to give me the exact date, but I'd like

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 1 Q. I'm not asking you about the objection. I  
 2 just want to know that you have it.

3 A. Yes.

4 MR. FURMAN: Okay. If there is an  
 5 objection, we'll deal with it. I'm going to ask  
 6 Karen to put at the end of the transcript a request  
 7 for the production of the manuscript of No Hero that  
 8 was received in early April that was approved by the  
 9 DOPSR as amended pursuant to its review. And I  
 10 understand that there may be an objection. We'll  
 11 deal with the objection off the record --

12 MR. TOBEY: Sure.

13 MR. FURMAN: -- just so we can move on.

14 BY MR. FURMAN:

15 Q. You mentioned earlier, Mr. Enslen, that  
 16 there were various reviewing components. Do you  
 17 know what components reviewed No Hero?

18 A. I don't know for certain because that's --  
 19 that's not officially shared.

20 Q. Okay. I just want to know if you know.  
 21 So it's not -- you would have no way of knowing one  
 22 way or the other?

23 A. I know there were six. They told there  
 24 were six components that it went to.

25 Q. Do you know who they are?

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 1 to know, to the best of your knowledge, when that  
 2 appeal was made.

3 A. My recollection is that it was filed  
 4 sometime mid-May of 2014. And the reason for the  
 5 delay, that's probably the most labor intensive time  
 6 from the attorney's side, frankly, in processing an  
 7 appeal is, as I think I mentioned earlier, the way  
 8 the process works, you're not really sure why  
 9 something was redacted. So if you want to challenge  
 10 a redaction, you have to be fairly artful in trying  
 11 to predict what a problem might be and then come up  
 12 with a potential solution for that. So I recall  
 13 that that always takes a while to put together.

14 So I may be off a little bit, but those  
 15 are the months I'm confident about. And so it was  
 16 resubmitted, you know, the appeal was submitted, I  
 17 should say, sometime in May of 2014.

18 Q. Do you have a copy of the manuscript that  
 19 you and the author received as amended in early  
 20 April?

21 MR. TOBEY: I think wasn't the decision  
 22 made to withhold that on the basis that there was --

23 THE WITNESS: The --

24 MR. TOBEY: -- that it was confidential?

25 BY MR. FURMAN:

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 1 A. I know ones that it would normally go to.  
 2 I'm positive that it went to SOCOM. The joint staff  
 3 will normally look at that. If there are any other  
 4 governmental agencies that are involved in the  
 5 subject of the manuscript, typically they're going  
 6 to get it. So the, you know, potential service  
 7 components sometimes will get it. You know, in  
 8 other words, a service component that the author  
 9 belonged to ultimately, even if they predominantly  
 10 operationally belonged to a command as in this case.

11 So all I know is there were six. And I  
 12 can predict just from having worked in that space  
 13 where they went. Occasionally you will -- you might  
 14 hear somebody at OSR say we're still waiting on a  
 15 response from so-and-so. And that's, you know,  
 16 that's not them officially telling you that.

17 They're just trying to tell you where the hangup is,  
 18 frankly. But I do know there were six for No Hero  
 19 that were looked at.

20 Q. Now, the appeal itself, was that done in  
 21 writing?

22 A. Yes.

23 MR. FURMAN: And I appreciate that there  
 24 may be objections, but I'm going to call for the  
 25 production of that appeal that was filed in mid-May

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| <p>1 of 2014. And I appreciate that there will be<br/>2 objections to it. I'm going to call for the<br/>3 production of it, and of course I'll follow up in<br/>4 writing.</p> <p>5 And also, if we leave a space in the<br/>6 transcript, could you also fill in the date of that<br/>7 appeal? Regardless of whether or not we succeed in<br/>8 obtaining the production of that appeal. So I'll<br/>9 ask to fill in that date.</p> <p>10 Information Requested: _____</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. Now, in terms of that appeal of the --<br/>13 I'll call it the first draft that you received from<br/>14 the DOPSR, when did you hear back on that appeal?</p> <p>15 A. Again, I'm assuming you mean when did we<br/>16 get the results back?</p> <p>17 Q. Yes.</p> <p>18 A. My recollection is it was August of 2014.</p> <p>19 Q. Now, let me just walk you backwards. The<br/>20 appeal was made in mid-May of 2014. Does the DOPSR<br/>21 or any agency respond and offer you some kind of<br/>22 reply or counterargument to your appeal?</p> <p>23 A. Yes. They will -- in a similar fashion to<br/>24 how they provide you after the initial submission<br/>25 with an approved-as-amended manuscript or approved</p>   | <p>Page 73</p> <p>1 will receive a -- essentially a new<br/>2 approved-as-amended manuscript.</p> <p>3 Q. Now, in connection -- I'm asking you<br/>4 specifically as to No Easy Day. Was that letter --</p> <p>5 MR. TOBEY: You mean No Hero?</p> <p>6 MR. FURMAN: I'm sorry. I meant No Hero.</p> <p>7 BY MR. FURMAN:</p> <p>8 Q. I'm asking you specifically with respect<br/>9 to No Hero. I actually did point to No Hero when I<br/>10 uttered the name of the other book. Let me start<br/>11 with a new question.</p> <p>12 Specifically with respect to No Easy Day,<br/>13 when did you receive that letter with an itemized<br/>14 response to the appeal?</p> <p>15 MR. TOBEY: You meant No Hero again.</p> <p>16 MR. FURMAN: And I meant No Hero again.</p> <p>17 So let me strike that.</p> <p>18 BY MR. FURMAN:</p> <p>19 Q. When did you receive a letter with an<br/>20 itemized response to the appeal in connection with<br/>21 No Hero?</p> <p>22 A. Again, my recollection is that it was<br/>23 sometime in August of 2014.</p> <p>24 Q. And do you have a copy of that, that<br/>25 letter?</p>  |
| <p>1 as recommended, with recommendations, whatever<br/>2 they're going to provide you back, they'll do the<br/>3 same thing with an appeal. And it typically comes<br/>4 in the form of a letter that is itemized by appeal<br/>5 number and -- or the item numbers in the appeal,<br/>6 because obviously there are some security concerns<br/>7 about the appeal document itself which, because it's<br/>8 challenging redactions itself, is obviously going to<br/>9 be much more sensitive than the original manuscript<br/>10 was. And so therefore, you know, document control<br/>11 and access and things like that are paramount with<br/>12 those documents.</p> <p>13 So they will send you back essentially<br/>14 that letter that I just described with, you know, an<br/>15 itemized account of, you know, stands by original<br/>16 appeal or, I'm sorry, stands by original redaction,<br/>17 indicating that essentially you lost on that<br/>18 challenge, or they will say alternative language<br/>19 accepted or, you know, redaction withdrawn if you<br/>20 won outright or, you know, anything in the interim.</p> <p>21 So it'll have you a detailed account of<br/>22 what your results are, but it doesn't spell out this<br/>23 is why we, you know, redacted this or this is why<br/>24 we, you know, we're agreeing with your argument.<br/>25 No explanation is given. And then, in addition, you</p> | <p>Page 74</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'm also going to call for<br/>3 production of that letter. I take it the letter is<br/>4 from the DOPSR?</p> <p>5 A. Yes.</p> <p>6 Q. And that letter will identify as the<br/>7 response letter which itemized the response to the<br/>8 appeal made in mid-May of 2014 in respect of the<br/>9 first review of No Hero by the DOPSR and the<br/>10 reviewing components.</p> <p>11 Mr. Enslen, was the manuscript altered in<br/>12 any particular, significant way in response in<br/>13 August of 2014 by the DOPSR following your appeal?</p> <p>14 A. The results of the appeal were we<br/>15 challenged, as I recall, 127 redactions. And we<br/>16 won, at least I say won, whether outright or with<br/>17 alternative language, somewhere close to a hundred<br/>18 of those, if that gives you any kind of indication.</p> <p>19 So there were still, as you can see from<br/>20 the book, there were still a number of redactions,<br/>21 you know, that were in there. And again, some of<br/>22 the redactions the author accepts because, you know,<br/>23 while you can challenge everything, Mr. Bissonnette<br/>24 did not challenge everything. He accepted, you<br/>25 know, a number of the redactions. So what remains</p> |

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| <p style="text-align: right;">Page 77</p> <p>1 then in the -- now what you see in the book reflects<br/>   2 the redactions that were either accepted or that we<br/>   3 lost in the appeal.<br/>   4 Q. So, in other words, there was never<br/>   5 another round of appeals after the May appeal and<br/>   6 the August response --<br/>   7 A. That is correct.<br/>   8 Q. -- of 2014?<br/>   9 A. I'm sorry. I didn't mean to talk over<br/>   10 you.<br/>   11 Q. Now, in connection with No Easy Day, now<br/>   12 I'm turning your attention to No Easy Day. If the<br/>   13 book was submitted for a prepublication review, do<br/>   14 you know which reviewing components, as you<br/>   15 described it, would have reviewed the manuscript?<br/>   16 A. I have no way of knowing for sure. My<br/>   17 educated assumption is it would have been the same<br/>   18 reviewing components. In my experience, those are<br/>   19 generally determined by the author's experience and<br/>   20 where he was assigned and, you know, I would expect<br/>   21 them to be the same for that reason.<br/>   22 Q. In connection with No Easy Day, do you<br/>   23 have an understanding one way or the other as to<br/>   24 whether the CIA would have been one of the reviewing<br/>   25 components?</p>   | <p style="text-align: right;">Page 79</p> <p>1 Hero?<br/>   2 A. Well, let me clarify one thing. I said<br/>   3 that we challenged approximately 127 redactions.<br/>   4 There were more than 127 redactions in No Hero. And<br/>   5 I will say that had No Easy Day been submitted for a<br/>   6 prepublication security review, I would not have<br/>   7 expected there to be anywhere near as many<br/>   8 redactions in No Hero as we got. I can say that.<br/>   9 Because I saw the effects that the, you know, all of<br/>   10 the problems caused by No Easy Day created for the<br/>   11 situation we were dealing with, you know, in No Hero<br/>   12 as much as --<br/>   13 Q. I understand your answer, but it's not<br/>   14 answering my question. My question is about No Easy<br/>   15 Day. And so let me ask the reporter if she could<br/>   16 repeat the question, and then if you can answer it,<br/>   17 we'll move on. If not, I can rephrase the question.<br/>   18 A. Okay.<br/>   19 THE REPORTER: Question: "Now, you had<br/>   20 mentioned that in connection with the book No Hero<br/>   21 that there were 127 redactions that were made, some<br/>   22 of which remain, and there are paragraphs of No Hero<br/>   23 that are redacted. Do you think that there would<br/>   24 have been less redactions in No Easy Day than there<br/>   25 were in No Hero?"</p> |
| <p style="text-align: right;">Page 78</p> <p>1 A. I don't have any way of knowing, you know,<br/>   2 if they would. Typically, if an organization is,<br/>   3 you know, is mentioned in the book, which I know<br/>   4 from having read No Easy Day that that is the case<br/>   5 and I know from having worked on No Hero that is the<br/>   6 case, I think it -- my guess would be that they<br/>   7 probably would, but I don't know that.<br/>   8 Q. Other than speculation on your part, do<br/>   9 you have any basis to know what sections of No Easy<br/>   10 Day would have been redacted one way or the other if<br/>   11 it had been submitted for a prepublication review?<br/>   12 A. Well, I would assume that the -- had it<br/>   13 been submitted for prepublication review, while<br/>   14 there could have been and likely would have been<br/>   15 some redactions here and there, I would not have<br/>   16 expected there to be too many of them given the<br/>   17 number of other publications, you know, that<br/>   18 discussed particularly the main mission discussed in<br/>   19 that book.<br/>   20 Q. Now, you had mentioned that in connection<br/>   21 with the book No Hero that there were 127 redactions<br/>   22 that were made, some of which remain, and there are<br/>   23 paragraphs of No Hero that are redacted.<br/>   24 Do you think that there would have been<br/>   25 less redactions in No Easy Day than there were in No</p> | <p style="text-align: right;">Page 80</p> <p>1 A. Assuming that No Easy Day was submitted<br/>   2 for prepublication security review, I would have<br/>   3 expected there to be fewer redactions in No Easy Day<br/>   4 than we received in No Hero.<br/>   5 BY MR. FURMAN:<br/>   6 Q. Now, do you know whether or not there is<br/>   7 any classified information in No Easy Day?<br/>   8 A. I do not know whether there is classified<br/>   9 information in there or not because, again, I'm not<br/>   10 the reviewing component or the classification<br/>   11 authority, so --<br/>   12 Q. Is it fair to say, and if it's not, just<br/>   13 let me know, that you would have to be read into the<br/>   14 special access program that formed a part of<br/>   15 Operation Neptune Spear in order to understand<br/>   16 whether or not there is classified information in<br/>   17 No Easy Day about Operation Neptune Spear?<br/>   18 A. Not necessarily.<br/>   19 Q. And why do you say that?<br/>   20 A. Well, because that assumes that the<br/>   21 Operation Neptune Spear had a different special<br/>   22 access program, or it suggests that to me, to which<br/>   23 it may or it may not have.<br/>   24 But I will say that -- well, I don't want<br/>   25 to convolute the record any more, but really you</p>   |

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| <p style="text-align: right;">Page 81</p> <p>1 have to be the classification authority to determine<br/>2 if it's classified information or not.<br/>3 Q. Do you know whether or not Operation<br/>4 Neptune Spear was a classified operation? Was it --<br/>5 A. What do you mean by classified operation?<br/>6 Q. Was it a top secret operation, to the best<br/>7 of your knowledge?<br/>8 A. I've never heard an operation necessarily<br/>9 portrayed that way, and I've been on plenty of<br/>10 operations myself. So, I mean, I'm not trying to<br/>11 play games with you. It's just that's not the<br/>12 context with which -- I mean, certainly it was a<br/>13 sensitive operation and no doubt it involved, you<br/>14 know, I would assume, multiple programs as most<br/>15 operations do, frankly. What in particular they<br/>16 were, I don't know. I wasn't involved in the<br/>17 operation.<br/>18 But, yes, certainly a sensitive operation.<br/>19 Whether I'd say, hey, you know -- again, I've never<br/>20 thought of an operation, including those that I've<br/>21 been on, in the terms of, oh, that's a top secret<br/>22 operation or that's -- there are different<br/>23 parameters of every mission and every operation that<br/>24 are more sensitive than others, so I'm really not --<br/>25 I'm not able to put a blanket, you know,</p>  | <p style="text-align: right;">Page 83</p> <p>1 in the White House in connection with the killing of<br/>2 Osama bin Laden.<br/>3 Did you -- were you aware of that article<br/>4 when it was first published in The New Yorker?<br/>5 A. No.<br/>6 Q. Do you believe that the fact that certain<br/>7 details of a classified operation -- I'm sorry. Let<br/>8 me rephrase that.<br/>9 Do you believe that if details of a<br/>10 certain classified operation are discussed in<br/>11 newspapers and in the public that that means that a<br/>12 book about that classified operation by someone who<br/>13 signs a nondisclosure agreement could be published?<br/>14 A. No. The publication, an open source<br/>15 doesn't necessarily -- doesn't change the<br/>16 classification of the information. That's -- that's<br/>17 my view on it.<br/>18 Q. Yeah. In other words, I think we both<br/>19 would agree that a classified -- I'm sorry, that<br/>20 that classified information remains classified<br/>21 information irrespective of whether it's in the<br/>22 public domain or not by other sources.<br/>23 A. I wouldn't totally agree with that because<br/>24 I believe it does matter about the source, because I<br/>25 can tell you that if, for example, you find yourself</p>  |
| <p style="text-align: right;">Page 82</p> <p>1 classification over an operation, particularly not<br/>2 one that I was, you know, did not participate in.<br/>3 Q. Now, you referenced that details of<br/>4 Operation Neptune Spear were already in the public<br/>5 domain prior to the publication of No Easy Day. Is<br/>6 that fair to say?<br/>7 A. I don't believe I said that I knew that<br/>8 they were in prior to the publication of No Easy Day<br/>9 because, as I've mentioned before, I read No Easy<br/>10 Day as a private citizen in the course of time. I<br/>11 really hadn't done that analysis. I know that the<br/>12 details from Operation Neptune Spear that we have,<br/>13 you know, researched and looked for government --<br/>14 government pronouncements on. I'm aware of a lot of<br/>15 that. Whether those dates, you know, whether that<br/>16 predates the actual publication of No Easy Day or<br/>17 not, I can't -- I can't tell you. I mean, it's<br/>18 proximate to, I can say that, for some of them. And<br/>19 nor do I remember the exact dates of the other books<br/>20 that I'm aware of that have discussed different<br/>21 aspects of Operation Neptune Spear.<br/>22 Q. There was an article in the magazine The<br/>23 New Yorker written by an author named Nicholas<br/>24 Schmittle, S-C-H-M-I-D-D-L-E, that had some details<br/>25 about what was taking place both on the ground and</p> | <p style="text-align: right;">Page 84</p> <p>1 in a situation of challenging certain things, for<br/>2 example, on an appeal to DOPSR, you're not going to<br/>3 cite New Yorker magazine articles for support.<br/>4 However, you might cite a speech by Barack<br/>5 Hussein Obama or Vice President Biden or Secretary<br/>6 Panetta or Secretary Gates or something or the<br/>7 Congressional Research Service, you know, that is --<br/>8 so while that's in the public domain, it's the U.S.<br/>9 Government's, you know, pronouncement. So -- and<br/>10 the reason I go into that is that, you know, that's<br/>11 the kind of thing that DOPSR also vets for the U.S.<br/>12 Government before it goes out.<br/>13 So that's why, you know, when you say that<br/>14 it's in the public domain, I think it depends on who<br/>15 put it there as to, you know, as to what value or<br/>16 what importance or, you know, credence you could<br/>17 give it.<br/>18 Q. Would you say that there is a standard of<br/>19 care -- let me take it back.<br/>20 Have you reviewed any documents that<br/>21 relate to my client Kevin Podlaski's representation<br/>22 of Mr. Bissonnette in connection with the<br/>23 publication of No Easy Day?<br/>24 A. I don't believe I have. If I have, I<br/>25 don't recall. Let me -- let me make sure, I'm</p> |

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1 sorry, let me make sure I understand your question.  
 2 You're asking me if I've reviewed any  
 3 documents relating to Mr. Podlaski's representation  
 4 of Mr. Bissonnette in connection with No Easy Day.  
 5 Q. Correct.  
 6 A. No, not that I recall. I've certainly  
 7 seen mention of, you know, by looking at the  
 8 pleadings and things like that, you know, within  
 9 this lawsuit, but documents relating to, you know,  
 10 to advice or anything like that -- let me think.  
 11 Just want to make sure I give you a complete answer.  
 12 I mean, I have seen in connection with this case  
 13 some e-mail, some e-mail traffic, but it's only been  
 14 in the context of preparing for this, you know,  
 15 deposition or, you know, or this case, nothing that  
 16 was -- I don't recall seeing anything at the time we  
 17 were working on No Hero, you know. And I'm sorry.  
 18 I can't remember the time frame of your question as  
 19 to whether it was tied to it.  
 20 Q. At any point in time. I just want to know  
 21 if you have read Mr. Podlaski's file in connection  
 22 with his representation of Mr. Bissonnette.  
 23 A. Wouldn't say I've read the file. I have  
 24 seen Mr. Podlaski in an e-mail exchange. It seems  
 25 like it was proximate to the time of the Jeh Johnson

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1 Mr. Bissonnette in connection with No Easy Day?  
 2 A. I have an opinion, yes.  
 3 Q. What is that opinion?  
 4 A. My opinion is that Mr. Podlaski should  
 5 have advised Mr. Bissonnette to submit the  
 6 manuscript for No Easy Day for prepublication  
 7 security review to DOD.  
 8 Q. Now, do you know one way or the other in  
 9 connection with that opinion as to what  
 10 Mr. Bissonnette told Mr. Podlaski and what  
 11 Mr. Podlaski told Mr. Bissonnette about that issue,  
 12 about the submission of the book for a  
 13 prepublication review?  
 14 A. No, I do not.  
 15 Q. Do you have information one way or the  
 16 other about what information Mr. Bissonnette told  
 17 Mr. Podlaski about the nondisclosure agreements he  
 18 signed in connection with Operation Neptune Spear?  
 19 A. No, I do not.  
 20 Q. Do you have any information one way or the  
 21 other about what information Mr. Bissonnette told  
 22 Mr. Podlaski about the nondisclosure agreements he  
 23 signed in general in connection with his service as  
 24 a Navy SEAL?  
 25 A. I don't know what Mr. Bissonnette would

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1 letter that was, I believe, late August 2012. But  
 2 again, in the context of this -- of this case,  
 3 not -- I did not review anything like that at the  
 4 time we were working on No Hero.  
 5 Q. Have you read Mr. Podlaski's deposition  
 6 transcript in this matter?  
 7 A. I have not.  
 8 Q. Have you read Mr. Bissonnette's deposition  
 9 transcript in this matter?  
 10 A. I have not.  
 11 Q. As of today do you have an opinion one way  
 12 or the other about Mr. Podlaski's representation of  
 13 Mr. Bissonnette?  
 14 A. In what context?  
 15 Q. In any context.  
 16 A. I believe that the manuscript for No Easy  
 17 Day should have been submitted for prepublication  
 18 security review, so any recommendation to the  
 19 counter I would disagree with. Again, I haven't  
 20 pored over all of the documents to see exactly what,  
 21 you know, what advice was given when, but --  
 22 Q. Based on what you know today and the  
 23 documents you've read and that you haven't, do you  
 24 have an opinion as to whether Mr. Podlaski deviated  
 25 from the standard of care in representing

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1 have told Mr. Podlaski. My assumption is that  
 2 Mr. Podlaski would have said, you know, show me  
 3 your, you know, your read-on, your read-off, your  
 4 SCI, you know, NDS, your classified information NDA,  
 5 and then assisted him in determining what his  
 6 actions should be.  
 7 So, therefore, really what Mr. Bissonnette  
 8 told Mr. Podlaski, no, I don't know, nor would it  
 9 affect what I -- my opinion really, because I think  
 10 that opinion should be grounded in what the, you  
 11 know, what the requirements are, particularly in the  
 12 SCI nondisclosure statement.  
 13 Q. So you're -- just so I understand your  
 14 answer, your answer is you don't know what  
 15 Mr. Bissonnette told Mr. Podlaski about the  
 16 nondisclosure agreements that he signed in  
 17 connection with his military career but that it  
 18 doesn't matter because Mr. Podlaski should have  
 19 confirmed it or otherwise assisted on it? Is that  
 20 what your testimony is?  
 21 A. Well, my assumption is that Mr. Podlaski,  
 22 his first move would be to look at the, you know,  
 23 the documents that Mr. Bissonnette executed in  
 24 connection with his read-on, his read-off, you know.  
 25 And again, we're talking about the CINA, the SCI

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| <p style="text-align: right;">Page 89</p> <p>1 nondisclosure statement, any indoc statements or<br/>   2 anything like that, the read-off. That would be the<br/>   3 starting point for any kind of representation<br/>   4 relating to a book review so that then the documents<br/>   5 speak for themselves.</p> <p>6 And that's why when I say it doesn't<br/>   7 matter what, you know, Mr. Bissonnette said to him,<br/>   8 I'm just saying that the documents speak for<br/>   9 themselves. So that's why to me the standard of<br/>   10 care would dictate look at those first and determine<br/>   11 what the standard is and then take the obligations<br/>   12 from that.</p> <p>13 Q. Now, do you know one way or the other<br/>   14 about Mr. Bissonnette's interest in maintaining<br/>   15 secrecy over his work in connection with the<br/>   16 preparation and the ultimate publication of the book<br/>   17 No Easy Day?</p> <p>18 A. I'm sorry. Can you read that back?</p> <p>19 Q. I can rephrase it for you.</p> <p>20 A. I just want to make sure I've got it.</p> <p>21 Q. I understand.</p> <p>22 THE REPORTER: Question: "Now, do you<br/>   23 know one way or the other about Mr. Bissonnette's<br/>   24 interest in maintaining secrecy over his work in<br/>   25 connection with the preparation and the ultimate</p>   | <p style="text-align: right;">Page 91</p> <p>1 BY MR. FURMAN:<br/>   2 Q. No, I'm asking a different question, so<br/>   3 I'm going to rephrase it.<br/>   4 A. Okay. Yeah, please rephrase it because I<br/>   5 don't understand it.<br/>   6 Q. Do you know whether or not Mr. Bissonnette<br/>   7 told Mr. Podlaski that he, Mr. Bissonnette, did not<br/>   8 want anyone in the military to know that he was<br/>   9 preparing to write a book about Operation Neptune<br/>   10 Spear?<br/>   11 MR. TOBEY: Object to the form.<br/>   12 A. No, I don't -- I don't know anything about<br/>   13 that.<br/>   14 BY MR. FURMAN:<br/>   15 Q. Around the time of the publication of<br/>   16 No Easy Day going into the late summer, early<br/>   17 September of 2012, is that roughly the first time<br/>   18 that you learned that the book was being written?<br/>   19 A. Yes. I mean, I recall, you know, I think<br/>   20 it may have been an e-mail from a SEAL buddy of mine<br/>   21 or something like that in Tampa or something.<br/>   22 Somewhere in a informal, you know, SOF, all caps,<br/>   23 S-O-F, special operations forces network or<br/>   24 something like that, you know, I heard buzz about<br/>   25 the book. That was the first time I became aware of</p>  |
| <p style="text-align: right;">Page 90</p> <p>1 publication of the book No Easy Day?"<br/>   2 THE WITNESS: I'm sorry. I'm going to ask<br/>   3 you to read it back one more time.<br/>   4 THE REPORTER: Question: "Now, do you<br/>   5 know one way or the other about Mr. Bissonnette's<br/>   6 interest in maintaining secrecy over his work in<br/>   7 connection with the preparation and the ultimate<br/>   8 publication of the book No Easy Day?"<br/>   9 MR. TOBEY: Object to the form.<br/>   10 A. I would assume that Mr. Bissonnette would<br/>   11 be concerned about meeting the obligations of his<br/>   12 classified information nondisclosure agreement and<br/>   13 his SCI nondisclosure, you know, statement and, you<br/>   14 know, the obligations that he had to the government<br/>   15 in terms of, you know, meeting those. I think that,<br/>   16 you know, Mr. Bissonnette, you know, had no desire<br/>   17 to get crosswise with the government and wanted to<br/>   18 meet his obligations under that.<br/>   19 I mean, my understanding all along is<br/>   20 that's frankly why he, you know, he -- I mean,<br/>   21 that's certainly why I felt like I was being hired<br/>   22 for No Hero was to help him navigate those<br/>   23 responsibilities and make sure that he didn't, you<br/>   24 know, run into any trouble. So if that -- if that<br/>   25 addresses his desire on the --</p> | <p style="text-align: right;">Page 92</p> <p>1 it.<br/>   2 Q. Can you describe what that buzz was?<br/>   3 A. It was just anytime there is a, you know,<br/>   4 books that are coming out, which happens frequently<br/>   5 within that SOF community, as I said. And again,<br/>   6 I'm saying SOF as an acronym, S-O-F, for special<br/>   7 operations forces. You know, for example, when<br/>   8 Lone Survivor came out, there was buzz about it, you<br/>   9 know, there's talk about it. It's something that a<br/>   10 lot of people in the community are obviously going<br/>   11 to read.<br/>   12 So it was something similar to that, but I<br/>   13 don't -- I didn't pay special attention to it<br/>   14 because -- and again, I wasn't involved in anything<br/>   15 at that time. So, you know, it was more in the, you<br/>   16 know, the fall of 2013 when I became involved in<br/>   17 anticipation of No Hero that I really looked back,<br/>   18 frankly went back and read No Easy Day again.<br/>   19 Q. Would you consider yourself in the SOF<br/>   20 community?<br/>   21 A. I would say former SOF since I'm retired<br/>   22 now. So, as much as I'd like to say I still am, I'm<br/>   23 not. But it's a -- it's a -- as I said before, no<br/>   24 surprise, it's a fairly small community when you get<br/>   25 right down to it and that likes to stay in touch,</p> |

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| <p>1 so --</p> <p>2 Q. Now, would you say that the publication of</p> <p>3 No Easy Day was controversial within the SOF</p> <p>4 community?</p> <p>5 A. At the first time I heard about it, no</p> <p>6 more so than other books.</p> <p>7 Q. Well, when you say no more so, what does</p> <p>8 that mean? You mean that there was controversy?</p> <p>9 A. I'm trying to remember a book that came</p> <p>10 out from a SOF operator that didn't create</p> <p>11 controversy within the community, because in</p> <p>12 general, and I'm -- this is a gross</p> <p>13 oversimplification, but just about any book that</p> <p>14 comes out by anybody, there's going to be a segment</p> <p>15 of the community that doesn't like it because they</p> <p>16 don't think anybody should write about it that's</p> <p>17 from the community.</p> <p>18 In my experience, there's going to be a</p> <p>19 segment of that community that, you know, likes the</p> <p>20 fact that it was written as long as it's not just</p> <p>21 about self-glorification or something like that.</p> <p>22 They generally want, you know, one of their own to</p> <p>23 tell a story. And then there's that group that</p> <p>24 really could care less. So every book that comes</p> <p>25 out, whether it's, you know, a household name or</p>  | <p>Page 93</p> <p>1 A. I mean, I've heard of that concept. A lot</p> <p>2 of units will have that, you know, type of thing.</p> <p>3 It's usually -- but it's not necessarily the same</p> <p>4 form. A lot of times it's just more of a -- again,</p> <p>5 that -- you know, that array of opinions that I said</p> <p>6 that tend to follow any publication, you know,</p> <p>7 that's going to exist whether it exists in granite</p> <p>8 or just in, you know, within the talk and buzz</p> <p>9 within the community. I mean, that's not uncommon.</p> <p>10 Q. Do you know one way or the other -- well,</p> <p>11 let me rephrase that. Have you heard in the SOF</p> <p>12 community that Mr. Bissonnette has been what's</p> <p>13 described as, quote, PNG'd, close quote, which I</p> <p>14 believe stands for persona non grata?</p> <p>15 A. I've not -- yes, I've heard that, you</p> <p>16 know, and I think it's been discussed I think in</p> <p>17 some of the articles and things like that, you know.</p> <p>18 But it's -- again, it goes back to which one of</p> <p>19 those little pockets you fall into as to, you know,</p> <p>20 there's -- I can think of, you know, other guys that</p> <p>21 I've served with that had the same type of stigma</p> <p>22 from some people, and others, you know, they do not</p> <p>23 attach that. So, yes, I've heard in general, but I</p> <p>24 can't cite to you where I heard it or, you know, a</p> <p>25 particular article or anything.</p> |
| <p>1 whether it's just the latest one to come out, tends</p> <p>2 to get that treatment within the community.</p> <p>3 Q. Were you aware that shortly before the</p> <p>4 publication of No Easy Day, there was a group of</p> <p>5 Navy SEALs that actually wrote a piece on the</p> <p>6 internet that was very condemning of Mr. Bissonnette</p> <p>7 for writing the book in the first place?</p> <p>8 A. Are you asking at the time the book came</p> <p>9 out was I aware of that or -- I'm sorry.</p> <p>10 Q. Well, did you become aware of it at some</p> <p>11 point?</p> <p>12 A. Later I did, once there was obviously a</p> <p>13 little bit more buzz ultimately about No Easy Day</p> <p>14 than your standard book, you know, because of the</p> <p>15 issues that happened with it. But, yes, I'm</p> <p>16 generally aware. I don't think I've ever read that</p> <p>17 account that you're talking about, but I know there</p> <p>18 have been a lot of writings and a lot of opinions</p> <p>19 thrown around about the subject.</p> <p>20 Q. Are you aware of there being a rock in</p> <p>21 the -- at the SEAL headquarters in Virginia Beach</p> <p>22 that contains the names of certain SEAL members that</p> <p>23 are no longer considered to be in good standing?</p> <p>24 A. No, I'm not aware of that.</p> <p>25 Q. Have you ever heard of that concept?</p> | <p>Page 94</p> <p>1 Q. And putting aside the contractual</p> <p>2 obligations that attach, which are obvious, in</p> <p>3 relation to the SOF community, do you believe that</p> <p>4 there is a segment there that believe that it's</p> <p>5 inappropriate for a Navy SEAL to write a book about</p> <p>6 an operation?</p> <p>7 A. Well, as I said, yes, there's always a</p> <p>8 segment within every special operations unit I'm</p> <p>9 aware of that some people are going to feel that</p> <p>10 way. And generally, whoever writes is going to be</p> <p>11 PNG'd to that group. But I've also never seen a</p> <p>12 situation where there wasn't a counter group to that</p> <p>13 that -- you know, again, usually -- usually the</p> <p>14 issue that I've seen that will cause somebody to,</p> <p>15 you know, get more grief and less acceptance is if,</p> <p>16 you know, if it's a self, you know, glorification</p> <p>17 type of thing. But if it's -- again, it's just a</p> <p>18 matter of opinion.</p> <p>19 But that segment and the aspect that</p> <p>20 you're talking about to me is fairly common within</p> <p>21 the SOF community. It's not unique to, you know,</p> <p>22 necessarily this situation. You know, you could</p> <p>23 find it in others just because some people don't</p> <p>24 want anybody to write about anything, even if they</p> <p>25 do it the right way, so --</p>   |

ALAN ENSLEN

January 24, 2017

MATTHEW BISSONNETTE vs KEVIN PODLASKI

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| <p>1     Q. Well, I just -- on this point I want to<br/> 2 show you a document that has been marked in this<br/> 3 case, just an e-mail. Just wanted to get your take<br/> 4 on it. It's Exhibit 27. It's an e-mail from<br/> 5 Mr. Bissonnette to Robert Luskin, Christine Ball at<br/> 6 Penguin Group, Ben Sevier at Penguin Group,<br/> 7 Mr. Ragone, R-A-G-O-N-E, who is a publicist,<br/> 8 Mr. Gigante, who is a lawyer at Penguin Group, Elyse<br/> 9 Cheney, who is a literary agent, Mark Fabiani, who<br/> 10 is a lawyer and also a public relations/crisis<br/> 11 manager, and the coauthor of <i>No Easy Day</i> called<br/> 12 Kevin Maurer. And that e-mail is dated<br/> 13 September 2nd of 2012.</p> <p>14        In that e-mail Mr. Bissonnette is<br/> 15 describing the fact that he -- I'm sorry, he's<br/> 16 describing his reaction to being told in December<br/> 17 that he was sent home from a trip and he was treated<br/> 18 poorly -- I don't want to quote him there -- and<br/> 19 that he denies writing the book because of this<br/> 20 event. Do you see that?</p> <p>21        A. Yes.</p> <p>22        Q. Now, there's a reference there that he<br/> 23 spoke with multiple friends at work before he<br/> 24 started the book project and every one of them knew<br/> 25 he was doing it for the right reasons.</p>                          | Page 97 | <p>1 today, correct?</p> <p>2        A. I don't recall seeing this e-mail. If<br/> 3 you'd give me a minute.</p> <p>4        Q. Yeah, if you could just take a moment to<br/> 5 read it.</p> <p>6        A. (Witness complies.) Okay. I've read it.</p> <p>7        Q. Okay. Now, the -- you mentioned earlier<br/> 8 that there's at least one segment of this SOF<br/> 9 community that would not be upset if they believed<br/> 10 that the author was not self-aggrandizing or<br/> 11 otherwise trying to promote himself in connection<br/> 12 with writing the book about a particular operation.</p> <p>13        Having read that e-mail, do you have a<br/> 14 different opinion as to whether Mr. Bissonnette was<br/> 15 self-promoting or trying to profit off of his<br/> 16 involvement in Operation Neptune Spear?</p> <p>17        A. No, it doesn't change my view of that. I<br/> 18 mean, every author that writes a book is going to<br/> 19 profit from it, you know, presumably. So it's not a<br/> 20 matter of -- I mean, it's also an individual<br/> 21 perception issue. I made a very general statement<br/> 22 about those three segments that I referred to, so I<br/> 23 don't see anything here that, you know, changes my<br/> 24 view of that.</p> <p>25        I mean, there's clearly an issue of</p>  | Page 99  |
| <p>1        Given that you now know that<br/> 2 Mr. Bissonnette signed a nondisclosure agreement,<br/> 3 was it appropriate for him to talk to his friends<br/> 4 about the book <i>Operation Neptune Spear</i>?</p> <p>5        MR. TOBEY: Objection. Form.</p> <p>6        A. When you say nondisclosure agreement, I<br/> 7 assume you're referring to his --</p> <p>8 BY MR. FURMAN:</p> <p>9        Q. SCI nondisclosure agreement.</p> <p>10       A. -- SCI nondisclosure agreement? Well, my<br/> 11 assumption would be that the friends at work that<br/> 12 he's referring to are fellow members of that same<br/> 13 unit who, you know, I will also assume signed the<br/> 14 exact same SCI nondisclosure statement. But the<br/> 15 fact that someone -- but notwithstanding that, the<br/> 16 fact that someone is writing a book and just<br/> 17 acknowledges the fact that they're writing a book,<br/> 18 you know, I don't think that in and of itself, you<br/> 19 know, that acknowledgment would be improper or<br/> 20 unusual, frankly.</p> <p>21       Q. Okay. If I can refer you to Exhibit 24.<br/> 22 And Exhibit 24 is an e-mail dated August 17th of<br/> 23 2012 -- this is before the publication of <i>No Easy</i><br/> 24 <i>Day</i> -- from Mr. Bissonnette to his literary agent,<br/> 25 Elyse Cheney. You've had a chance to read it before</p> | Page 98 | <p>1 wanting to give back some of that money to the<br/> 2 community, to the -- you know, I understood, you<br/> 3 know, later I understood that some of the -- some of<br/> 4 the proceeds were intended to go to Naval Special<br/> 5 Warfare Family Foundation or something that's a<br/> 6 related type of charitable organization.</p> <p>7       Q. Are you aware that the SEAL Foundation<br/> 8 turned Mr. Bissonnette down?</p> <p>9       A. I believe -- yes, I'm aware. I'm not sure<br/> 10 how I became aware of that. I think Matt may have<br/> 11 mentioned that at some point, but --</p> <p>12       Q. And do you know why they turned him down?</p> <p>13       A. I have no idea.</p> <p>14       Q. And the SEAL Foundation is a charitable<br/> 15 organization, correct?</p> <p>16       A. As far as I know. Most of the special<br/> 17 operations units have a family support type of<br/> 18 foundation that's available. I know there's plenty<br/> 19 of others I could name that are similar, so I'm<br/> 20 assuming it's a 501(c)(3) or some sort of a<br/> 21 nonprofit.</p> <p>22       Q. And yet the SEAL Foundation didn't want<br/> 23 any contributions from Mr. Bissonnette?</p> <p>24       A. Right, that's my understanding.</p> <p>25       Q. Now, in this e-mail there's a reference to</p> | Page 100 |

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| <p>1 a person named Warren West. Do you know who that<br/>     2 is?</p> <p>3 A. I do not.</p> <p>4 Q. You know who Mark Owen is, right?</p> <p>5 A. Yes. I know what that pseudonym means.</p> <p>6 Q. If I were to tell you that the pseudonym<br/>     7 Warren West is also a reference to -- is a pseudonym<br/>     8 for Mr. Bissonnette in connection with his<br/>     9 involvement in Hollywood working with HBO and<br/>     10 DreamWorks and other movie houses, would that change<br/>     11 your view as to whether Mr. Bissonnette was trying<br/>     12 to profit off of the -- his involvement with the<br/>     13 Navy SEALs?</p> <p>14 A. No, it doesn't change my view because I<br/>     15 think you may be misunderstanding my view or how<br/>     16 that's being expressed. It's not that -- you know,<br/>     17 and again, it's a personal decision. Somebody may<br/>     18 think that, you know, if you make one penny off of<br/>     19 your service, then that's -- they don't like that.<br/>     20 Other people may have a differing view of it.</p> <p>21 The predominant -- again, gross<br/>     22 generalization, but the predominant beef or, you<br/>     23 know, complaint that I think most people that I'm<br/>     24 aware of have within the SOF community when somebody<br/>     25 does this is not whether or not they make money.</p>   | <p>1 security review.</p> <p>2 Q. Is there any other specific departure from<br/>     3 the standard of care that you would attribute to<br/>     4 Mr. Podlaski's representation of Mr. Bissonnette?</p> <p>5 A. No, because the one I just highlighted<br/>     6 really is the only one I'm -- the only aspect I've<br/>     7 ever really considered it in.</p> <p>8 Q. Do you know the classification level of<br/>     9 Operation Neptune Spear?</p> <p>10 A. Again, we're back to that whole issue<br/>     11 of you're talking classification --</p> <p>12 Q. Classification. Do you know if it's top<br/>     13 secret, not top secret, or otherwise? Do you know?</p> <p>14 A. Again, I'm not trying to be nonresponsive,<br/>     15 but I will say that I've never heard of an<br/>     16 operation, you know, given a particular label like<br/>     17 that. There are -- I would assume that if you were<br/>     18 to attribute a label to it, there are only three<br/>     19 classifications available. And, you know, so I<br/>     20 would assume that it would be a top secret<br/>     21 operation, but more accurately, I would say that<br/>     22 there are certainly aspects, different aspects that<br/>     23 would be at different classification levels.</p> <p>24 And as we talked earlier, the issue of,<br/>     25 you know, other programs that may or may not be</p>       |
| Page 102   | Page 104   |
| <p>1 It's how they tell the story.</p> <p>2 And there are -- we can see, you know,<br/>     3 again, for everybody's individual assessment,<br/>     4 different people handle things differently, you<br/>     5 know, in the public eye as to what their, you know,<br/>     6 their involvement was with the service, so -- but<br/>     7 nothing about this e-mail or nothing -- assuming<br/>     8 what you're saying, I have no reason to believe what<br/>     9 you're saying is not true. Even if that is another<br/>     10 pseudonym, the fact that he's, you know, running<br/>     11 down movie deal aspects of it or other books or<br/>     12 whatever, you know, it doesn't -- it doesn't bother<br/>     13 me and it doesn't -- and I don't think it would<br/>     14 change the opinion of, you know, of necessarily<br/>     15 everybody in the community or anything like that<br/>     16 because, again, it's more how you tell the story<br/>     17 than it is exactly what profits you're making.</p> <p>18 Q. Now, I want to turn back to Mr. Podlaski.<br/>     19 You had earlier said that you felt that he deviated<br/>     20 from the standard of care. I'm paraphrasing your<br/>     21 testimony.</p> <p>22 A. Yes, I believe I said that I do -- I do<br/>     23 believe that Mr. Podlaski should have advised<br/>     24 Mr. Bissonnette, you know, to submit, you know, the<br/>     25 manuscript for No Easy Day for prepublication</p> | <p>1 involved in certain aspects of an operation have<br/>     2 such an effect on classification issues that, you<br/>     3 know, again, that's why I would say that it's, you<br/>     4 know, if you had to choose between confidential,<br/>     5 secret or top secret, which are the only three<br/>     6 classifications that exist, yes, I would assume an<br/>     7 operation like that would receive the, you know, the<br/>     8 highest level. But I don't know. I wasn't --<br/>     9 didn't participate in the operation and don't know<br/>     10 how it was -- how it was portrayed.</p> <p>11 Q. Now, I'm bearing in mind I don't know one<br/>     12 way or the other in my question. I just -- I'm<br/>     13 going to bear in mind your caveat that there may be<br/>     14 aspects of a particular operation that are subject<br/>     15 to varying degrees of classification, so I<br/>     16 appreciate that. But with that in mind, do you know<br/>     17 one way or the other what aspects of Operation<br/>     18 Neptune Spear were top secret or something<br/>     19 otherwise?</p> <p>20 A. No.</p> <p>21 Q. Now, if No Easy Day was submitted for a<br/>     22 prepublication review, what in your mind do you<br/>     23 think would have happened?</p> <p>24 A. Again, I can -- I would assume it would<br/>     25 run through the same process. It would be very</p> |

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1 similar to the process we went through for No Hero.  
 2 And my assumption is that there, you know, typically  
 3 there -- haven't seen a manuscript that didn't get  
 4 some sort of, you know, recommendation or redaction  
 5 of some sort. But I think it would have been, you  
 6 know, it would have been reviewed, similar to how  
 7 the other books that were coming out, you know, at  
 8 the time, some of which, you know, did discuss the  
 9 operation.

10 Q. Which books are those that you're  
 11 referring to?

12 A. Again, this is what we referred to  
 13 earlier. I can't name all the names. I just know  
 14 that I'm fairly certain that, you know, Secretary  
 15 Gates, Secretary Panetta, General McChrystal had  
 16 books, I believe, that -- I don't know if Brandon  
 17 Webb put out a book or not. Then there was the  
 18 other SEAL gentleman that I'm not sure of his name.

19 You know, there were other books that came  
 20 out. Whether they were totally about that operation  
 21 or whether that operation was just part of their,  
 22 you know, part of their structure, I don't know.  
 23 But my assumption is that the book would have gone  
 24 through the normal prepublication security review  
 25 process, and I would expect it to, you know, to

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1 some time less than that in length is what I would  
 2 expect. But again, this is total speculation  
 3 because, you know, I don't -- you know, there are a  
 4 lot of other factors that can go in, but I would  
 5 have no reason to believe that it would take as long  
 6 as No Hero did.

7 Q. Now, I'm just turning to No Hero. I just  
 8 want to make sure I understood it. I understood  
 9 that the appeal of the initial redactions were taken  
 10 in April -- I'm sorry, the first set of redactions  
 11 were received from the DOPSR in early April.

12 A. Uh-huh.

13 Q. There was a mid-May 2014 appeal and that  
 14 the resolution of that appeal was received by letter  
 15 in August of 2014.

16 A. That's correct as to No Hero, but --

17 Q. As to No Hero.

18 A. -- the speculation that you asked me to do  
 19 about No Easy Day, I don't know that there would  
 20 have been an appeal. I'm talking -- I was talking  
 21 about the first -- getting, you know, from the time  
 22 you submit a manuscript until you get an  
 23 approved-as-admitted manuscript, and ideally you're  
 24 in a situation where there is no appeal. So --

25 Q. So is it your -- so I can understand it,

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1 largely survive intact.

2 Q. Do you know what sections of No Easy Day  
 3 would have survived intact?

4 A. I don't know because I'm not the  
 5 classification authority, so obviously I wouldn't  
 6 know that, but --

7 Q. And do you know -- I know I'm asking an  
 8 obvious question, but the reverse of that is, do you  
 9 know what sections of the book would have been  
 10 redacted?

11 A. No.

12 Q. Do you know the time frame that if No Easy  
 13 Day had been submitted for a prepublication review,  
 14 say in August of 2012, how long the process would  
 15 have taken from publication to -- appeal process to  
 16 a publishable book?

17 A. Obviously I don't know, but my opinion is  
 18 that it would have taken less time than No Hero took  
 19 because No Hero is saddled with the baggage from  
 20 No Easy Day. And so if you want to look at that as  
 21 a potential model, that's probably the closest thing  
 22 I would come to.

23 I would assume, you know, something -- I  
 24 believe the No Hero was we said early January  
 25 through sometime early April. I believe it would be

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1 you're telling me that based on your knowledge and  
 2 experience, you believe that if No Easy Day was  
 3 submitted for a prepublication review, it would have  
 4 been reviewed and in a publishable form within four  
 5 months of submission?

6 A. I think that DOPSR would have done their  
 7 best to meet their target of 30 working days, which,  
 8 you know, often morphs into 45 days to 60 days,  
 9 something like that. I think you would have seen  
 10 something in that time frame.

11 But again, it's, you know, I don't know  
 12 whether there -- you know, I'm not assuming there  
 13 would be an appeal after that because, again, a lot  
 14 of what we dealt with in No Hero and using that as a  
 15 time frame is a little problematic because the time  
 16 certainly took longer because of the issues that we  
 17 had inherited from the No Easy Day situation.

18 Q. Isn't it fair to say that in giving your  
 19 answer about what you believe to -- what would have  
 20 been the time frame had the book No Easy Day had  
 21 been submitted for prepublication review, that  
 22 you're -- essentially you speculate as to what the  
 23 government would have done?

24 MR. TOBEY: Objection. Form.

25 A. Yeah, I mean, we're talking about

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|   |   |
|---|---|
| <p style="text-align: right;">Page 109</p> <p>1 something that didn't happen, so it's hard for me to<br/>2 do it any way other than speculating. I think<br/>3 that's what you're asking me to do is assume what if<br/>4 it were submitted.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. Correct.</p> <p>7 A. Yes. And that's --</p> <p>8 Q. And if I asked you this question, I'm<br/>9 going to apologize in advance. Have you had<br/>10 experience in dealing with the review process with<br/>11 the CIA?</p> <p>12 A. Yes.</p> <p>13 Q. And do you believe that No Easy Day would<br/>14 have been submitted to the CIA for a review?</p> <p>15 MR. TOBEY: Objection. Asked and<br/>16 answered.</p> <p>17 A. Again, generally, if an agency is<br/>18 discussed in a book, I will assume that they're<br/>19 probably going to see it. So I would assume that<br/>20 they would.</p> <p>21 BY MR. FURMAN:</p> <p>22 Q. If you were to tell a jury what factors<br/>23 the CIA would consider when they're reviewing a<br/>24 book, what would you tell the jury?</p> <p>25 A. Well, the -- my assumption is that they</p>  | <p style="text-align: right;">Page 111</p> <p>1 MR. TOBEY: Just a few minutes.<br/>2 MR. FURMAN: All right. Good. All right.<br/>3 Thank you.</p> <p>4 (Recess from 1:47 to 2:17)</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. Mr. Enslen, do you know whether or not the<br/>7 book No Easy Day contains classified or sensitive<br/>8 information?</p> <p>9 A. No, I don't.</p> <p>10 Q. If I can refer you to Exhibit 1, have you<br/>11 seen that letter before, the letter that was written<br/>12 by Mr. Johnson who at the time was general counsel<br/>13 to the Department of Defense on August 30th, 2012,<br/>14 to Mr. Bissonnette care of Penguin Books?</p> <p>15 A. Yes, I've seen this before.</p> <p>16 Q. When was the first time you saw it?</p> <p>17 A. I don't recall specifically, but I assume<br/>18 I would have seen it proximate to the time that I<br/>19 first talked with Mr. Bissonnette in the fall of<br/>20 2013.</p> <p>21 Q. In the letter, at the end of the second<br/>22 paragraph of the letter, Mr. Johnson states,<br/>23 quote, "In the judgment of the Department of<br/>24 Defense, you are in material breach and violation of<br/>25 the nondisclosure agreements you signed."</p>   |
| <p style="text-align: right;">Page 110</p> <p>1 would look at similar factors to what, you know, DOD<br/>2 related components would look at, which are going to<br/>3 be, you know, typically things that, you know, like<br/>4 sensitive locations, you know, TPPs, as we call<br/>5 them, tactics, techniques, and procedures. That<br/>6 typically is the thing that, you know, creates the<br/>7 most angst within any review.</p> <p>8 And then to the extent they had, you know,<br/>9 different considerations or different issues that<br/>10 were important to them about, you know, a particular<br/>11 subject, then those get injected. But those could<br/>12 be -- those could be -- that could exist or could<br/>13 not exist but would be necessarily, you know, at<br/>14 play if applicable.</p> <p>15 MR. FURMAN: Why don't we take a -- now I<br/>16 smell food.</p> <p>17 MR. TOBEY: Yeah. Are you getting hungry?</p> <p>18 MR. FURMAN: Can we take a break, but can<br/>19 we keep it sort of short?</p> <p>20 MR. TOBEY: Well, we're right here, so we<br/>21 can take 15, 20 minutes.</p> <p>22 MR. FURMAN: Is that okay? And then what<br/>23 I'm really aiming to do is to be able to wrap up by<br/>24 3:30.</p> <p>25 Do you anticipate asking questions?</p> | <p style="text-align: right;">Page 112</p> <p>1 Do you agree with that statement based on<br/>2 the information that you now know and also the<br/>3 nondisclosure agreement that was attached to<br/>4 Mr. Johnson's letter?</p> <p>5 A. In the context of failure to submit for a<br/>6 prepublication security review, yes, I would think<br/>7 that's a correct statement based on what I know.</p> <p>8 Q. The last sentence of the second paragraph<br/>9 states, quote, "Further public dissemination of your<br/>10 book will aggravate your breach and violation of<br/>11 your agreements." Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you believe that at that point in time<br/>14 the book -- there should have been no further<br/>15 efforts to disseminate No Easy Day based on<br/>16 Mr. Johnson's letter?</p> <p>17 A. I can't say there shouldn't have been<br/>18 further efforts. I just think it is what it is.</p> <p>19 They're -- DOD is firing a shot across the bow, and<br/>20 you're proceeding at your own risk at that point,<br/>21 so --</p> <p>22 Q. Do you know one way or the other whether<br/>23 the book was released for publication on the day of<br/>24 that August 30th, 2012, letter?</p> <p>25 A. I don't know because, again, I wasn't</p> |

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|--|---|
| 1 involved at this stage, so --                        | 1 Q. This -- I'm sorry. Let me rephrase that.           |
| 2 Q. Are you aware of the publication date of          | 2 Document Exhibit 109 is a copy of the contract that   |
| 3 No Easy Day?   | 3 was between the publisher and Mr. Bissonnette for     |
| 4 A. No. I know it was -- my recollection is           | 4 the book No Easy Day.                                 |
| 5 and understanding is that it was sometime not too    | 5 A. Can you repeat the question?                       |
| 6 long after this letter, but I don't know exactly     | 6 Q. Yeah.  |
| 7 what the date was.                                   | 7 A. Or she could read it back.                         |
| 8 Q. Did you review any materials that relate          | 8 Q. Yeah, I can rephrase the question. I want          |
| 9 to Mr. Luskin's representation of Mr. Bissonnette in | 9 to try to make it easier for you.                     |
| 10 connection with Mr. Jeh Johnson's letter of         | 10 Based on your reading of paragraph 4(b),             |
| 11 August 30, 2012?                                    | 11 do you believe that it would have been contractually |
| 12 A. Ever or at the time of --                        | 12 possible for the publisher to stop publication of    |
| 13 Q. Ever.  | 13 the book No Easy Day in view of Jeh Johnson's        |
| 14 A. Can you -- I have within -- within the           | 14 August 30th, 2012, letter in order to work out any   |
| 15 last -- in preparation for this deposition I have,  | 15 issues with the Department of Defense?               |
| 16 so --   | 16 MR. TOBEY: Objection. Form.                          |
| 17 Q. Have you formed an opinion one way or the        | 17 A. I don't know that it would -- again, with         |
| 18 other as to Mr. Luskin's involvement and work on    | 18 the understanding that this is a long contract and   |
| 19 behalf of Mr. Bissonnette in connection with the    | 19 we're zeroing in on one clause and I haven't read    |
| 20 response to Jeh Johnson's August 30, 2012, letter?  | 20 all of the other provisions of the contract and      |
| 21 A. No, I haven't.                                   | 21 therefore don't know if something else within this   |
| 22 Q. Do you believe that Mr. Luskin should have       | 22 contract might unseat that.                          |
| 23 told Mr. Bissonnette and his publishers not to      | 23 But it's certainly a relevant                        |
| 24 publish No Easy Day in view of Jeh Johnson's        | 24 consideration, but I don't -- again, I wasn't        |
| 25 August 30th, 2012, letter?                          | 25 involved at this stage. I wasn't involved in this    |
| Page 114   | Page 116  |
| 1 MR. TOBEY: Objection. Form.                          | 1 matter, so I don't know if there were other facts     |
| 2 A. I really don't know enough of the facts of        | 2 that may, you know, lead the publisher to decide      |
| 3 what was -- what was really going on at that time as | 3 that that wouldn't apply or wouldn't, you know,       |
| 4 to what would have driven Mr. Luskin's guidance and  | 4 wouldn't be in effect.                                |
| 5 advice on that subject. So, you know, I don't have   | 5 BY MR. FURMAN:  |
| 6 an opinion one way or the other based on that.       | 6 Q. Do you have any knowledge one way or the           |
| 7 BY MR. FURMAN:                                       | 7 other as to the decision to move the publication      |
| 8 Q. And if you could take a look at                   | 8 date of No Easy Day from September 11th, 2012, to     |
| 9 Exhibit 109. Bear with me a moment. I need to        | 9 September 4th of 2012?                                |
| 10 review it myself. I'm going to focus your attention | 10 A. No, I do not.                                     |
| 11 on paragraph 4, 4(b). Let me know when you're       | 11 Q. Did you -- rephrase that. Start over.             |
| 12 finished reading 4(b). I just have a question in    | 12 Do you have any information about                    |
| 13 relation to that paragraph.                         | 13 Mr. Bissonnette's activities that were the focus of  |
| 14 A. Okay. I've read it.                              | 14 certain government investigations?                   |
| 15 Q. If in fact the publisher decided to follow       | 15 THE WITNESS: Can you read that back?                 |
| 16 the instruction in Jeh Johnson's August 30th letter | 16 THE REPORTER: Question: "Do you have any             |
| 17 of 2012 to not further disseminate the book No Easy | 17 information about Mr. Bissonnette's activities that  |
| 18 Day, do you believe that paragraph 4(b) would have  | 18 were the focus of certain government                 |
| 19 rendered such a decision to not be a violation of   | 19 investigations?"                                     |
| 20 the contract?                                       | 20 BY MR. FURMAN:                                       |
| 21 MR. TOBEY: Objection. Form.                         | 21 Q. Other than the book No Easy Day.                  |
| 22 A. And can you identify this -- I know you          | 22 A. I am aware of other aspects,                      |
| 23 identified the Exhibit 109. We're looking at the    | 23 investigations that I believe clearly stem from      |
| 24 contract between --                                 | 24 No Easy Day that, you know, have gone on since that  |
| 25 BY MR. FURMAN:                                      | 25 time.  |

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|---|--|
| <p>1 Q. Well, let me ask you some specifics. Are<br/>2 you aware of the government's investigation of<br/>3 Mr. Bissonnette in connection with certain artifacts<br/>4 that he kept in his possession following Operation<br/>5 Neptune Spear, including but not limited to a<br/>6 photograph of bin Laden's body after he was killed?</p> <p>7 A. No, I'm not aware of any of that.</p> <p>8 Q. Are you aware of the government's<br/>9 investigation of Mr. Bissonnette as it relates to a<br/>10 business called, quote, Chief Consulting Group,<br/>11 close quote?</p> <p>12 A. That name does not ring a bell. Again,<br/>13 I'm aware that there were -- there had been ongoing<br/>14 investigations as, you know, frankly it seems the<br/>15 federal government has done everything they can to<br/>16 leave no stone unturned within his life. So I'm<br/>17 aware of it not from representing him in it, but<br/>18 those are the same kinds of things like No Easy Day<br/>19 that have had effects on things such as No Hero and<br/>20 subsequent things that we've been trying to get<br/>21 approved from DOPSR.</p> <p>22 Q. For example, Mr. Bissonnette was involved<br/>23 in an enterprise called, quote, The Element Group,<br/>24 close quote. Have you heard of that enterprise?</p> <p>25 A. That name does not ring a bell.</p> | <p>1 (Recess from 2:32 to 2:35)</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Referring to Exhibit 1 and the attachments<br/>4 to Jeh Johnson's letter, do you have an opinion one<br/>5 way or the other as to whether the DD-1847 that was<br/>6 signed by Mr. Bissonnette in 2007 should have<br/>7 applied to the contents of No Easy Day?</p> <p>8 A. Yes, in my view it would, just from the<br/>9 simple standpoint that once you're read on, you're<br/>10 read on until you're read off. So, yes.</p> <p>11 Q. There are acronyms -- and I'm going to<br/>12 point to the section of DD-1847 that is at the very<br/>13 beginning of it. In the preamble there are some<br/>14 acronyms that are at the very top of the SCI<br/>15 nondisclosure agreement.</p> <p>16 And I believe the best way to do it is for<br/>17 me to show it to you on the eighth page of<br/>18 Exhibit 1. And I appreciate that it's very hard to<br/>19 read, and I doubt the government intended for it to<br/>20 be so hard to read, but there are acronyms that<br/>21 relate to what appear to be certain SAP programs.</p> <p>22 Do you know what those acronyms stand for?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Could you tell me what they stand for?</p> <p>25 A. I cannot tell you what they stand for.</p>  |
| Page 118  | Page 120   |
| <p>1 Q. Are you aware generally that<br/>2 Mr. Bissonnette was involved in either owning<br/>3 businesses or consulting with businesses that were<br/>4 alleged to have contracts with the Navy?</p> <p>5 A. I recall there being some mention of, you<br/>6 know, some kind of consulting, some kind of<br/>7 consulting agreement. But again, I wasn't handling<br/>8 it. It was just something that I recall going on in<br/>9 parallel and that I was made aware of because, you<br/>10 know, of the potential for it to have effects on<br/>11 things that we were continuing to try to, you know,<br/>12 get approved through OSR or DOPSR.</p> <p>13 Q. And finally, the video game Medal of<br/>14 Honor, are you aware of Mr. Bissonnette's<br/>15 involvement with Medal of Honor, the video game, and<br/>16 the government's investigation of that?</p> <p>17 A. That rings a bell that that was part of an<br/>18 investigation. I'm not specifically aware of<br/>19 anything related to that. Again, that was really<br/>20 before my time.</p> <p>21 MR. FURMAN: I think I'm very close to<br/>22 wrapping up. Could I just have a quick moment --</p> <p>23 MR. TOBEY: Sure.</p> <p>24 MR. FURMAN: -- just to review my notes?</p> <p>25 And we can go off the record.</p>   | <p>1 Q. And I don't know if you can answer this<br/>2 question, but based on your knowledge of what those<br/>3 acronyms stand for, do you believe that for that<br/>4 reason the DD-1847 that was signed in 2007 relates<br/>5 to the contents of No Easy Day, or is that something<br/>6 that you cannot tell me?</p> <p>7 A. Well, it really goes to your last question<br/>8 on this. To me it's -- in terms of -- this really<br/>9 defines what you're read on for specifically. I<br/>10 mean, what I can say is that as other programs<br/>11 obviously as you've already identified these as, you<br/>12 know, program acronyms, that's -- that's what you're<br/>13 read on for. And until you're read off, which is<br/>14 what you would see if you continue on for a read-off<br/>15 sheet, that's what you're read off for.</p> <p>16 So whether those programs would<br/>17 specifically apply to, you know, the subject matter<br/>18 of No Easy Day, first of all, I wouldn't be<br/>19 qualified to answer that having not been involved in<br/>20 that operation. And if I was, I wouldn't be able to<br/>21 answer that question, so --</p> <p>22 MR. FURMAN: So I want to take that<br/>23 answer, both parts of that answer just to break it<br/>24 down. Let me just have it read back, the answer,<br/>25 and I'll work off of that. Thanks.</p> |

| 1  | (The answer was read)                                | Page 121 | Page 123 |
|----|--|----------|----------|
| 2  | BY MR. FURMAN:                                       |          |          |
| 3  | Q. So I'm now working off of that answer. If         |          |          |
| 4  | you were read on to the program that comprises of    |          |          |
| 5  | this part if not all of Operation Neptune Spear, you |          |          |
| 6  | wouldn't be able to tell me, because of the          |          |          |
| 7  | classification of that information, whether or not   |          |          |
| 8  | No Easy Day violates that nondisclosure agreement.   |          |          |
| 9  | Is that correct?                                     |          |          |
| 10 | A. No, I wouldn't -- I would say that's not          |          |          |
| 11 | correct. I believe that the -- maybe the reason for  |          |          |
| 12 | reading something on is being taken a little bit out |          |          |
| 13 | of context maybe. I mean, individuals are read on    |          |          |
| 14 | for certain programs. Whether those programs become  |          |          |
| 15 | applicable to particular operations, you would only  |          |          |
| 16 | know if you were involved in the operation.          |          |          |
| 17 | And, you know, the reason I said I                   |          |          |
| 18 | wouldn't be able to respond if I was involved in it, |          |          |
| 19 | I'm only going to be able to discuss that with other |          |          |
| 20 | people that are similarly read on. Does that make    |          |          |
| 21 | sense?   |          |          |
| 22 | Q. Well, the reason I'm asking that is               |          |          |
| 23 | because what I don't understand is if there are      |          |          |
| 24 | elements of the book No Easy Day that would fall     |          |          |
| 25 | within any one of those acronyms that are on the     |          |          |
| 1  | DD-1847 that is attached to Exhibit No. 1 that was   | Page 122 | Page 124 |
| 2  | signed in 2007, by definition Mr. Bissonnette's book |          |          |
| 3  | would not have been allowed to be published. At      |          |          |
| 4  | least that's my understanding.                       |          |          |
| 5  | A. In response to that, I would say the              |          |          |
| 6  | concern would not be that if anything in that book   |          |          |
| 7  | related to anything, you know, here, because these   |          |          |
| 8  | programs, the fact that something -- if there was    |          |          |
| 9  | something that was pertinent to one of these         |          |          |
| 10 | programs that went on in the operation, then it      |          |          |
| 11 | wouldn't necessarily render, you know, a portrayal   |          |          |
| 12 | of the operation, you know, invalid or anything like |          |          |
| 13 | that or problematic. I mean, in other words, these   |          |          |
| 14 | are -- things are compartmented for a reason,        |          |          |
| 15 | because they want certain things, you know, not to   |          |          |
| 16 | be, you know, widely disseminated.                   |          |          |
| 17 | So, you know, but just because -- I mean,            |          |          |
| 18 | most operations, quite frankly, are going to be      |          |          |
| 19 | subject to, in the special operations community, are |          |          |
| 20 | going to be subject from time to time to different,  |          |          |
| 21 | you know, programs. But that doesn't -- doesn't      |          |          |
| 22 | render the entire operation, you know, off limits    |          |          |
| 23 | from discussion, or it might.                        |          |          |
| 24 | It just depends on what -- that's why                |          |          |
| 25 | it's -- I'm not trying to be evasive. I'm just       |          |          |

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|---|---|
| 1 authority from the government before he became        | 1 Q. Do you know whether or not Mr. Maurer              |
| 2 involved in writing the book, prior to the            | 2 sought clearance from the government prior to his     |
| 3 prepublication process?                               | 3 receipt of the manuscript of No Easy Day?             |
| 4 MR. TOBEY: Objection. Form.                           | 4 A. I don't know.                                      |
| 5 BY MR. FURMAN:  | 5 Q. Do you know or have an opinion as to               |
| 6 Q. In other words -- strike that. Let me ask          | 6 whether he should have gotten clearance before he     |
| 7 a better question.                                    | 7 received the manuscript of No Easy Day before the     |
| 8 Did Mr. Maurer seek approval or clearance             | 8 government did?                                       |
| 9 from the DOPSR before he became involved in the       | 9 A. Again, I'm not certain what kind of                |
| 10 preparation of the manuscript with Mr. Bissonnette   | 10 clearance you're talking about because that really   |
| 11 for No Hero?   | 11 isn't part of their process. So, no. My opinion is   |
| 12 A. I don't know.                                     | 12 that there's nothing he should have sought to get    |
| 13 Q. Should he have done that?                         | 13 because I'm not aware of a process to get any such   |
| 14 A. In my opinion, there would be nothing             | 14 clearance.   |
| 15 to -- I don't know what you would apply for or what  | 15 MR. FURMAN: Okay. I don't have any                   |
| 16 you would ask them for. I mean, essentially they're  | 16 further questions. Thank you very much.              |
| 17 going to say send me a manuscript, we're going to    | 17 THE WITNESS: Thank you.                              |
| 18 put it through the process and tell you if there's a | 18 MR. FURMAN: And if I didn't say so                   |
| 19 problem.   | 19 before, and I don't mind saying it on the record,    |
| 20 Q. You mentioned earlier that the DOPSR is           | 20 thank you for your service to this country. Thank    |
| 21 more comfortable with someone, say, like you who has | 21 you.   |
| 22 security clearance in handling the process. In       | 22 THE WITNESS: Thank you for that. Thank               |
| 23 other words, you would get a copy of the manuscript  | 23 you for the support.                                 |
| 24 and then hand it over to the DOPSR, and the          | 24 MR. TOBEY: Absolutely.                               |
| 25 confidence that the government has is that since you | 25  |
| Page 126  | Page 128  |
| 1 have clearance, you know how to handle that           | 1 EXAMINATION   |
| 2 information.  | 2 BY MR. TOBEY:   |
| 3 A. Well, that's a broad assumption on my part         | 3 Q. Let me follow up -- first let me introduce         |
| 4 and fairly a self-serving assumption on my part as    | 4 myself. My name's Robert Tobey. I represent           |
| 5 attorney working on the book, but that's not a        | 5 Mr. Bissonnette in this lawsuit. And you and I, I     |
| 6 requirement. You know, there's coauthors, you know,   | 6 guess, met for the first time in person yesterday?    |
| 7 fairly frequently not going to have, you know,        | 7 A. Correct.   |
| 8 they're not going to have the clearance that          | 8 Q. Let me ask you some follow-ups to what             |
| 9 somebody might have had.                              | 9 Mr. Furman kind of ended with, which is asking you    |
| 10 But once you don't have a clearance, the             | 10 what could be said in a book.                        |
| 11 fact that you did have a clearance is nice, but      | 11 To your knowledge, as long as there is no            |
| 12 it's -- you don't have a clearance. It is what it    | 12 confidential information contained in the book,      |
| 13 is at the time. It's a snapshot. And so that's one   | 13 would there be anything to prevent Mr. Bissonnette   |
| 14 of the reasons that OSR relies on their process.     | 14 from writing the story about Operation Neptune       |
| 15 They're like, here, give it to us, we'll determine   | 15 Spear?   |
| 16 what, you know, what needs to be -- needs to be      | 16 A. No.   |
| 17 redacted.  | 17 Q. And assuming there was no confidential            |
| 18 Q. In respect of No Easy Day, you're aware           | 18 information used, would there be anything to prevent |
| 19 that Mr. Maurer also worked on that book as well.    | 19 Mr. Bissonnette from writing a story about the       |
| 20 Yes?   | 20 Captain Phillips issue?                              |
| 21 A. Uh-huh.   | 21 A. No.   |
| 22 Q. It's the first time in this long day that         | 22 Q. And I think Mr. Furman asked you this             |
| 23 I've had to ask you to keep your answers verbal.     | 23 question on direct, but let me make sure I have a    |
| 24 A. I just nodded. I told you I was going to          | 24 clear answer. Do you believe that there was          |
| 25 fall asleep.   | 25 confidential information in No Easy Day?             |

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| Page 129   | Page 131   |
|--|--|
| <p>1 A. Let me clarify. When you say confidential<br/>2 information, are you --</p> <p>3 Q. Classified information --</p> <p>4 A. Classified information.</p> <p>5 Q. -- is the word I meant to use. Used the<br/>6 wrong word there.</p> <p>7 A. Okay.</p> <p>8 Q. Do you believe there was classified<br/>9 information in No Easy Day, just upon your review of<br/>10 it?</p> <p>11 A. No, I have no reason to believe there was<br/>12 classified information in it based on my review.</p> <p>13 Q. All right. And assuming that book had<br/>14 been submitted for a prepublication review to the<br/>15 DOPSR, do you anticipate that some redactions would<br/>16 have been made by that agency?</p> <p>17 A. Yes, because I've never had one submitted<br/>18 to DOPSR that didn't contain some kind of redaction.<br/>19 I would not have expected there to be much in the<br/>20 way of redaction, but --</p> <p>21 Q. Okay. Do you anticipate that the<br/>22 redactions that would have been made by DOPSR would<br/>23 have been impossible for Mr. Bissonnette and<br/>24 Mr. Maurer to write around?</p> <p>25 A. No. I believe that in my experience with</p>  | <p>1 A. No, that would not be a good idea because<br/>2 there are different forms. I mean, we're looking at<br/>3 the ones attached to Exhibit No. 1, you know, make<br/>4 that clear that there are different form numbers and<br/>5 there are different form versions and things like<br/>6 that. And in my experience, the different commands,<br/>7 you know, may use different forms, and so therefore<br/>8 the verbiage may be slightly different.</p> <p>9 So, just to know what the standard is,<br/>10 again, it would be -- I would never rely on, you<br/>11 know, verbal -- you know, there's a document.<br/>12 That's the best evidence of what the standard is, so<br/>13 need to see the documents that were executed by the<br/>14 individual.</p> <p>15 Q. And assume with me that the lawyer asked<br/>16 the question to the author "What have you signed"<br/>17 and the author responds "I don't know." What should<br/>18 the lawyer's next step be in that situation?</p> <p>19 A. Well, I would say to the client, well,<br/>20 we've got to find out. We've got to request those<br/>21 documents. We've got to get them because one way or<br/>22 the other we've still got to find out what that<br/>23 standard is.</p> <p>24 You know, the fact that the author says --<br/>25 if the author says, hey, I've never been read on for</p>   |
| <p style="text-align: center;">Page 130</p> <p>1 the process, redactions -- for one, that's why the<br/>2 appeal process exists, because it gives you the<br/>3 opportunity to suggest an alternate -- alternate<br/>4 language or an alternate way of, you know,<br/>5 portraying something. So I do believe they would<br/>6 have been able to write around any problems that may<br/>7 have been highlighted by DOPSR during the review<br/>8 process.</p> <p>9 Q. Okay. You indicated, I believe, on a<br/>10 question from Mr. Furman that one of the things that<br/>11 a lawyer should do when they're representing an<br/>12 author is to confirm the documents that the author<br/>13 may have signed with the government.</p> <p>14 A. That's correct. They've got to know<br/>15 what -- you've got to know what standard they're<br/>16 being held to before you can really help them comply<br/>17 with, you know, with that standard.</p> <p>18 Q. And do you know what, if anything,<br/>19 Mr. Podlaski did to get that confirmation from<br/>20 Mr. Bissonnette?</p> <p>21 A. I do not know.</p> <p>22 Q. All right. In your opinion, is it a good<br/>23 idea for the lawyer to rely on the author's memory<br/>24 of what he or she may have signed with the<br/>25 government?</p> | <p style="text-align: center;">Page 132</p> <p>1 SCI so I've never signed any of that, okay, that<br/>2 whittles it down a little bit. So you would still<br/>3 want to see whatever it is they executed because,<br/>4 again, I know of no other way of knowing what<br/>5 standard the government is going to hold you to with<br/>6 regard to your, you know, your nondisclosure<br/>7 statements, nondisclosure agreements that you've<br/>8 made with them without seeing those documents.</p> <p>9 Q. And is there a procedure that exists so<br/>10 that either the author or the lawyer for the author<br/>11 can go to somebody in the government and say we need<br/>12 to see everything that the author has signed?</p> <p>13 A. I think there are various procedures that<br/>14 exist, you know, that whether it's going back to<br/>15 your -- what's called your SSO, to use an acronym<br/>16 that I think came out earlier in the deposition, or<br/>17 to make a request through the, you know, the defense<br/>18 department or the component of the defense<br/>19 department that individual worked for. There are<br/>20 procedures, and it just depends on which note or<br/>21 which level that you would try to go to. And a lot<br/>22 of that would be driven by who held that clearance<br/>23 or where were they read on, where was their last<br/>24 SSO, that kind of thing. So, yes, there is -- there<br/>25 are multiple processes that would allow that to</p> |

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| Page 133  | Page 135  |
|---|---|
| 1 happen.<br>2 Q. All right. And in this case do you know<br>3 what steps, if any, that Mr. Podlaski took to<br>4 determine what Mr. Bissonnette may have signed with<br>5 the government?<br>6 A. I do not know what steps he took.<br>7 Q. Now, you alluded two or three times in<br>8 questions from Mr. Furman that there were<br>9 difficulties in going through the review process<br>10 with No Hero as a result of No Easy Day not having<br>11 been submitted for a prepublication review. Do you<br>12 recall that?<br>13 A. Yes.<br>14 Q. Can you tell us more specifically what<br>15 those difficulties were?<br>16 A. Well, as I said, obviously when this thing<br>17 started, when No Hero started, the DOPSR point of<br>18 contact was well aware of who Mr. Bissonnette was<br>19 and was aware to some extent, I'm not sure to what<br>20 extent, but was aware to some extent of the problems<br>21 associated with No Easy Day.<br>22 So that was a concern that I discussed<br>23 with him at the beginning to make sure that they<br>24 understood, you know, without question that<br>25 Mr. Bissonnette was, you know, absolutely   | 1 had been submitted for a prepublication review, that<br>2 you would have received many fewer redactions in<br>3 response by the DOPSR --<br>4 MR. FURMAN: Objection.<br>5 BY MR. TOBEY:<br>6 -- for No Hero?<br>7 A. Yes, I do.<br>8 Q. And what is the basis for that opinion?<br>9 A. Again, I believe it was held to -- I'm not<br>10 saying by DOPSR, but I do believe there were<br>11 reviewing components that certainly gave more<br>12 scrutiny to No Hero because of No Easy Day based on<br>13 what some of the redactions that we received, some<br>14 of which we won on challenges after it was called to<br>15 their attention.<br>16 Q. And let me ask you this. You indicated, I<br>17 think, an answer just a moment ago that in your<br>18 experience the DOPSR does their job.<br>19 A. Yes.<br>20 Q. Do you have any reason to believe that if<br>21 No Easy Day had been submitted to a prepublication<br>22 review that the DOPSR would have just sat on it; in<br>23 other words, never done their job?<br>24 A. I don't -- I don't think they would have<br>25 done that. I think they would have processed it   |
| 1 100 percent committed to fulfilling his obligations<br>2 to the U.S. Government and that, you know,<br>3 essentially we wanted to cross every T, dot every I,<br>4 and make sure that there was no question about that<br>5 intent and then also during the review.<br>6 So, because my concern was that I didn't<br>7 want spillover from one situation that, you know, I<br>8 wasn't involved with, and so therefore I wasn't<br>9 aware of what all the issues were. But I just knew<br>10 I did not want them to taint the process for<br>11 No Hero. Unfortunately, I believe it did contribute<br>12 to a slowdown in the No Hero processing. You know,<br>13 I've always found DOPSR, though, to be professional<br>14 and, you know, to try to keep things in their<br>15 separate lanes as much as possible, and I think by<br>16 and large they did. But there was no doubt that we<br>17 experienced additional delay in No Hero because of<br>18 what happened in No Easy Day.<br>19 Q. And I think you indicated that you<br>20 actually challenged 127 redactions in No Hero?<br>21 A. That's correct.<br>22 Q. And there were more redactions than that,<br>23 but you only challenged 127 of them.<br>24 A. That's correct.<br>25 Q. All right. Do you believe if No Easy Day | 1 like any other, any other publication they received.<br>2 They didn't -- you know, frankly, they -- as I said,<br>3 a concern was to make sure they didn't sit on<br>4 No Hero, and to their credit they did not. It was<br>5 processed despite them knowing what they knew about<br>6 No Easy Day.<br>7 But again, once it gets to the reviewing<br>8 components, that's the part that you're more distal<br>9 from, from that part of the operation, and therefore<br>10 really don't have as much visibility over what the<br>11 intentions are by the reviewing components.<br>12 Q. But just to summarize, you don't have any<br>13 reason to believe that the DOPSR would have just not<br>14 done their job --<br>15 A. I have no reason to --<br>16 Q. -- in regard to No Easy Day?<br>17 A. That's correct. I have no reason to<br>18 believe that they would not have done their job.<br>19 Q. You indicated in questions from Mr. Furman<br>20 that you believe that Mr. Podlaski violated the<br>21 standard of care by not advising Mr. Bissonnette to<br>22 get a prepublication review of No Easy Day. Do you<br>23 recall that answer?<br>24 A. Yes.<br>25 Q. Do you also believe that that act was a |

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MATTHEW BISSONNETTE vs KEVIN PODLASKI

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| Page 137 |  | Page 139 |  |
|----------|--|----------|--|
| 1        | proximate cause of damage to Mr. Bissonnette?        | 1        | CHANGES AND SIGNATURE                                |
| 2        | A. Yes, absolutely.                                  | 2        | WITNESS NAME: DATE OF DEPOSITION:                    |
| 3        | Q. Okay. Have you done anything to quantify          | 3        | ALAN ENSLEN JANUARY 24, 2017                         |
| 4        | those damages?                                       | 4        | PAGE LINE CHANGE REASON                              |
| 5        | A. I have not.                                       | 5        |  |
| 6        | Q. Okay. Going back to No Easy Day, do you           | 6        |  |
| 7        | believe that there's anything in the book that would | 7        |  |
| 8        | jeopardize the security of the United States?        | 8        |  |
| 9        | A. No, I don't.                                      | 9        |  |
| 10       | Q. Do you believe there was anything in that         | 10       |  |
| 11       | book that would jeopardize the safety of any members | 11       |  |
| 12       | of the United States military, including Navy SEALs? | 12       |  |
| 13       | A. No, I don't. And I can assure you that if         | 13       |  |
| 14       | I did have anything close to that kind of concern,   | 14       |  |
| 15       | then my answer would be different, so --             | 15       |  |
| 16       | MR. TOBEY: Pass the witness.                         | 16       |  |
| 17       | MR. FURMAN: You know I love that.                    | 17       |  |
| 18       | No further questions. Mr. Enslen, thanks for your    | 18       |  |
| 19       | time. Appreciate it.                                 | 19       |  |
| 20       | THE REPORTER: Could I get copy orders on             | 20       |  |
| 21       | the record?  | 21       |  |
| 22       | MR. TOBEY: Yes. I'd like a copy. I                   | 22       |  |
| 23       | think we're getting a rough.                         | 23       |  |
| 24       | MR. FURMAN: Yeah.                                    | 24       |  |
| 25       | MR. TOBEY: And I'd like the e-transcript.            | 25       |  |
| Page 138 |  | Page 140 |  |
| 1        | (Deposition concluded at 3:03 p.m.)                  | 1        | I, ALAN ENSLEN, have read the foregoing              |
| 2        |  | 2        | deposition and hereby affix my signature that same   |
| 3        | -oOo-  | 3        | is true and correct, except as noted above.          |
| 4        |  | 4        |  |
| 5        |  | 5        |  |
| 6        |  | 6        | ALAN ENSLEN  |
| 7        |  | 7        | STATE OF _____ )                                     |
| 8        |  | 8        | COUNTY OF _____ )                                    |
| 9        |  | 9        | Before me, _____, on this                            |
| 10       |  | 10       | day personally appeared ALAN ENSLEN, known to me (or |
| 11       |  | 11       | proved to me under oath or through                   |
| 12       |  | 12       | _____ (description of identity card or               |
| 13       |  | 13       | other document) to be the person whose name is       |
| 14       |  | 14       | subscribed to the foregoing instrument and           |
| 15       |  | 15       | acknowledged to me that they executed the same for   |
| 16       |  | 16       | the purposes and consideration therein expressed.    |
| 17       |  | 17       | Given under my hand and seal of office               |
| 18       |  | 18       | this _____ day of _____, 2017.                       |
| 19       |  | 19       |  |
| 20       |  | 20       |  |
| 21       |  | 21       | NOTARY PUBLIC IN AND FOR                             |
| 22       |  | 22       | THE STATE OF _____                                   |
| 23       |  | 23       |  |
| 24       |  | 24       | My Commission Expires: _____                         |
| 25       |  | 25       |  |

ALAN ENSLEN

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January 24, 2017

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1                   IN THE UNITED STATES DISTRICT COURT  
 2                   FOR THE NORTHERN DISTRICT OF INDIANA  
 3    MATTHEW BISSONNETTE,                   }  
       }  
 4                   Plaintiff,                   }  
       }  
 5                   vs.,                           } Case No. 1:15-cv-00334  
       }  
 6    KEVIN PODLASKI and CARSON           }  
   BOXBERGER, LLP,                           }  
 7                   }  
 8                   Defendants.                   }  
 9                   }

## REPORTER'S CERTIFICATE

## ORAL DEPOSITION OF ALAN ENSLEN

JANUARY 24, 2017

I, KAREN L. SHELTON, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, ALAN ENSLEN, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(e) that the signature by the deponent:

X was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from date of receipt of the transcript. If returned, the attached Errata contains any changes and the reasons therefor;

\_\_\_\_\_ was not requested by the deponent or a

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1 party before the completion of the deposition.

I further certify that I am neither counsel for, related to, nor employed by any of the parties in or counsel to this action, nor am I financially or otherwise interested in the outcome of this action.

Certified to by me this 1st day of February, 2017.

*Karen L. Shelton*

Karen L. Shelton, CSR/RDR/CRR  
 Texas CSR 7050, Exp. 12/31/2018  
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ALAN ENSLEN

January 24, 2017

MATTHEW BISSONNETTE vs KEVIN PODLASKI

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1 I, ALAN ENSLEN, have read the foregoing  
2 deposition and hereby affix by signature that same  
3 is true and correct, except as noted above.

4   
5

6 ALAN ENSLEN

7 STATE OF Alabama )

8 COUNTY OF Jefferson )

9 Before me, Daniel Lowry, on this  
10 day personally appeared ALAN ENSLEN, known to me (or  
11 proved to me under oath or through  
12 \_\_\_\_\_) (description of identity card or  
13 other document) to be the person whose name is  
14 subscribed to the foregoing instrument and  
15 acknowledged to me that they executed the same for  
16 the purposes and consideration therein expressed.

17 Given under my hand and seal of office  
18 this 6<sup>th</sup> day of March, 2017.



24   
25 NOTARY PUBLIC IN AND FOR  
THE STATE OF Alabama

26 My Commission Expires: 9/21/2020



27 **ESQUIRE**  
28 DEPOSITION SOLUTIONS

29 800.211.DEP0 (3376)  
30 EsquireSolutions.com

## 1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 7 3 Insert "No Hero" so that testimony  
6 reads "...for the No Hero manuscript he"  
7 Reason: clarification;

8 11 5 Delete "and a half" Reason: accuracy;

9 12 10-11 Delete "joint Special Forces officer," and  
10 word "so" (in Line 11) so that testimony  
11 reads "... so, as a joint special operations  
12 officer, I" Reason: accuracy/readability;

13 21 18 Insert "additional" so that testimony reads  
14 "Something additional is required."  
15 Reason: accuracy;

16 25 19 ~~AFE~~ Replace "types" with "type"  
17 Reason: grammar;

18 26 4 Replace "administrative" with "administrator"  
19 Reason: accuracy;



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MATTHEW BISSONNETTE vs KEVIN PODLASKI

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## 1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 28 6 Replace "necessary" with "necessarily"  
Reason: accuracy;6  
7 28 17 Insert "of understanding" so that  
testimony reads "... I don't have that  
level of understanding."  
Reason: accuracy/clarification;8  
9 30 13 Insert "and" after word "control"  
Reason: accuracy;10  
11 31 14 Insert "who" after word "firm"  
Reason: accuracy/readability;12  
13 36 22-23 Delete "where I will say there was"  
Insert " - " after word "discrepancy" so  
that testimony reads "... little discrepancy  
- an inconsistency...."  
Reason: clarification/readability;ESQUIRE  
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(Front and of 9)

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 37 17 Delete "with" Reason: readability;

6 38 14 <sup>AFZ</sup> Insert "also" so that testimony reads  
7 "... OSR was also trying to revise"  
8 Reason: accuracy/readability;

9 43 18-20 Delete "their discussions but not--  
10 it's not pure visibility over that"  
11 so that AFZ testimony reads  
12 "visibility over. So understand...."  
13 Reason: accuracy/readability;

14 44 22 Delete "that back and you get"  
15 Reason: readability;

16 45 5 Delete "proposing --"  
17 Reason: accuracy;

18 45 20 Replace "one" with "manuscript"  
19 Reason: accuracy/clarification;

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 46 7 Delete "Meaning"

6 Insert "I Mean" so that testimony  
7 reveals "By amorphous I mean that...."  
8 Reason: accuracy/readability;

9  
10 50 3 Insert "personnel" after "NAVSPECWARCOM"  
11 Reason: accuracy;

12  
13 53 15 Delete "will" Reason: readability;

14  
15 53 25 Delete "because" Reason: readability;

16  
17 56 13 Replace "evaluating" with "using to  
18 evaluate" Reason: accuracy/clarification;

19  
20 59 8 Insert "is Operation Neptune Spear"  
21 after word "gist"  
22 Reason: accuracy/clarification;

23  
24 59 25 Replace "about" with "and"

25 Reason: accuracy;

## 1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 62 12 Replace "in" with "end"6 Reason: accuracy;7 63 19 Insert "to" after "straight"8 Reason: accuracy/readability;9 64 24 Delete "for themselves"10 Reason: readability/accuracy;11 70 7 Delete "is" Reason: accuracy;12 70 17 Replace "should" with "would"13 Reason: accuracy;14 71 23 Insert "me" after "told"15 Reason: accuracy/clarification;16 74 1 Delete "as recommended," Reason: accuracy;17 74 8 Delete "itself" Reason: accuracy;ESQUIRE  
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A handwritten signature in black ink that appears to read "Alan Enslen".

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(Errata 5 of 9)

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 74 21 Replace "have" with "give"  
Reason: accuracy;

6 80 20 Delete "the" Reason:accuracy;

7 80 22 Delete the word "to" just prior  
to the word "which"  
Reason: accuracy/readability;

8 80 23 Insert "had" after "have"  
Reason: accuracy;

9 82 8 Insert "the public domain" after  
the word "in" so that testimony reads  
"they were in the public domain prior to..."  
Reason: accuracy/clarification;

10 83 14 Insert "in" before the word "an"  
Reason: accuracy;



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(Errata 6 of 9)

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 84 6 Delete "or something" after the  
6 name "Gates" Reason: accuracy/readability;

7 86 19 Replace "counter" with "contrary"  
8 Reason: accuracy;

9 92 14 Delete "and" Reason: readability;

10 92 25 Insert "one" after "and"  
11 Reason: accuracy;

12 93 15 Insert "SOF" after "the"  
13 Reason: accuracy;

14 93 18 Insert "also" after "there's"  
15 Reason: accuracy/readability;

16 95 15 Delete: "I've not --"  
17 Reason: accuracy/clarification;

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 96 17 Delete "But if it's--"

Reason: readability;

6 106 19 Replace "is" with "was"

Reason: accuracy;

7 118 12 Delete "OSR or" Reason: accuracy;

8 120 15 Replace "that's" with "that remains"

Reason: classification;

9 120 15 Replace "off" with "on"

Reason: accuracy;

10 121 10 Delete "No, I wouldn't--"

Reason: Clarification;

11 121 12 Replace "something" with "someone"

Reason: accuracy;



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(Exhibit B of 9)

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 ALAN ENSLEN JANUARY 24, 2017

4 PAGE LINE CHANGE REASON

5 126 4 Insert "a" before the word "fairly"  
and Delete "a" after the word "fairly"  
Reason: clarification/accuracy;

6 131 12 Insert "you" after "so"  
Reason: accuracy;

7 132 20 Replace "note" with "node"  
Reason: accuracy;

8 133 23 Replace "him" with "them"  
Reason: accuracy;

9 135 13 Delete "what"  
Reason: accuracy/readability.



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A handwritten signature in black ink that reads "Alan E. Enslen".

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(Date 9 of 9)